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# INCLUSIONARY LAND USE MEASURES REPORT

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JUNE 1980

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**INCLUSIONARY LAND USE MEASURES:  
TECHNIQUES TO PROVIDE AFFORDABLE HOUSING**

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## I. INTRODUCTION

In early 1979, the Association of Bay Area Governments (ABAG) submitted a proposal to HUD to undertake a demonstration project with a Bay Area city to investigate and implement inclusionary land use measures. The overall goal of the project was to provide technical assistance to the city in its attempts to provide additional housing opportunities for low and moderate income people. Inclusionary land use measures are techniques which can be used by local communities to expand the supply of affordable housing for low and moderate income people. Many of these techniques result in some form of land use decisions; others deal with increasing awareness, acceptance, and cooperation. Both are essential ingredients of a successful local housing program.

During the course of trying to select a single city for this project, it became evident that three cities were interested in participating: Cupertino, Livermore, and Napa. The advantages of a three-city project were quickly apparent: (1) each of the three would benefit from the experiences of the others; (2) three different ways of supplementing local efforts would be demonstrated; and (3) other local governments would have three models to choose from in developing their own approaches to adopting inclusionary land use measures. As a result of the interest expressed by the cities and the possibilities of a three-cities project, ABAG decided to include all three in its proposal to HUD. ABAG submitted the proposal, received the funds and commenced the project in May, 1979.

The objectives of this project were two-fold: 1) to identify measures which local communities could use in order to obtain more affordable housing for low and moderate income people; and 2) to identify the various political obstacles that must be overcome before these measures can be implemented. In striving to accomplish these objectives, ABAG staff, in conjunction with the three cities' staff, performed the following three steps: (1) identified inclusionary land use measures currently in use in other parts of the nation, state, and region; (2) identified the issues surrounding the adoption of inclusionary land use measures in each of the three cities; and (3) identified strategies and approaches appropriate for each city. Each of these three steps resulted in the completion of a working paper.

The first working paper, Review of Inclusionary Land Use Measures Program (Appendix A), presented a detailed description of inclusionary land use measures programs presently in use in jurisdictions throughout the nation, state and region. The intent of the first working paper was not only to describe the broad range of measures presently in use, but to begin discussion of the possible measures that could be adopted and used in the cities of Cupertino, Livermore, and Napa.

The second working paper, Issues Surrounding Adoption of Inclusionary Land Use Measures and Preliminary Strategies (Appendix B), included: a detailed description of the issues surrounding the adoption of inclusionary land use measures in the cities of Cupertino, Livermore,



and Napa and preliminary strategies for the possible implementation of such measures in each of the three cities. The technique used to identify issues was a series of interviews in each of the cities. Those interviewed in each city included: The mayor; in two cities, a planning commissioner; local advocates for lower cost housing development; a developer who had done a lower cost housing development; a developer who is presently doing a housing development which includes lower cost units; and a developer who would like to do a housing development which would include lower cost units. The intent of the second working paper was to gather points of view from different individuals representing different interests on low and moderate income housing. From these interviews, the preliminary strategies were developed for review and comment by the staff from each of the three participating cities.

The third working paper, Identification of Strategies and Approaches (Appendix C), includes a consensus of perceived needs and recommended suggestions to which the three cities' staffs agreed and a refinement of the preliminary strategies offered for each city in the second working paper. The intent of the third working paper was to identify common needs and first step strategies for each of the three cities. The common needs identified by the three cities are thought to be similar to needs that other Bay Area communities might also identify, while the first step strategies were intended to establish initial or further commitments from each of the three cities. In addition, the third working paper helped to direct ongoing and future housing efforts in ABAG's Housing Program.

It should be stressed that the three working papers in total serve as the base of this final report. It is the intent of this report to identify strategies and approaches which the three cities could adopt or refine in order to provide additional low and moderate income housing opportunities. This report fully recognizes that the recommended strategies and approaches for each city cannot result in a significant amount of additional affordable housing being built in the short-term. They are, however, effective tools, and can contribute to the production of needed housing. A primary reason for this is that the political process moves slowly and cautiously. While the political process is sometimes accused of hindering the prompt provision of more affordable housing, it does insure that as many different concerns as possible are heard and addressed. This is important because concerns not addressed in the planning stages can in the future halt a development and cause financially costly delays which could lead to abandonment of a development. In addition, by addressing the many concerns early, a number of potential obstacles can be overcome, the most significant of which is community/neighborhood opposition to the development.

Perhaps the most important new element that can emerge from the political process if it is properly addressed is a broader base of support for developments which include low and moderate income housing units. This can be achieved by increased awareness for all involved of each other's role in the development process. This increased understanding can eliminate some of the obstacles in providing additional low and moderate income housing opportunities. However, the

need for political commitment on the part of the elected policy-makers to obtain affordable housing units and to work with all parties concerned to achieve this goal is of paramount importance. Developers and others must be made fully aware of requirements that must be met and what incentives will accompany these requirements.

For purposes of this report, the terms "low" and "moderate income" are defined as below 80 percent of median income for "low" and between 80-120 percent of median income for "moderate". These definitions are consistent with those used by HUD, other federal agencies, and many cities and counties. The phrases "low and moderate income housing", "lower cost development or housing units", and "affordable housing units" are considered synonymous and used interchangeably in this report. In addition, the phrase "assisted housing" is used to refer to units or people receiving federal or state subsidies.



## II. THE THREE CITIES: CUPERTINO, LIVERMORE and NAPA

As previously mentioned, the three cities participating in this demonstration project were: Cupertino, Livermore, and Napa. In many ways, the three cities are very similar. According to ABAG estimates, which are based on county Local Agency Formation Commission (LAFCO) spheres of influence boundaries for each city, the 1975 population, employment, and housing totals for each city were as follows:

<u>City</u>	<u>Population</u>	<u>Employment</u>	<u>Housing Units</u>
Cupertino	43,300	18,700	14,400
Livermore	49,300	16,800	14,800
Napa	54,100	19,100	20,100

All three cities are suburban communities and none has a substantial minority or low-income population. There are also dissimilarities. Both Livermore and Napa have growth management programs which restrict annual residential growth. While all three have substantial amounts of residential land available to develop, a significant portion of Cupertino's land is on hillsides.

### CURRENT EFFORTS

The following is a summary of the existing and proposed housing programs in the cities of Cupertino, Livermore, and Napa. This brief summary is not intended to be a full description; rather it is intended only to highlight the existing and proposed housing programs in each city.

#### CUPERTINO

The city has a density requirement stating that a development of ten or more units at a density of six housing units per acre must provide at least 10 percent of its units for families in the city whose income is at or below 120 percent of the median income of the county. In terms of rental units, the city has a Section 8 rental rehabilitation program which provides loans at no interest to owners/landlords if they rent to low and moderate income persons.

In addition, the city has a rent stabilization program which makes loans at a three percent interest rate to owners/landlords who agree to stabilize the rents for a 15-year period (note: rents can be adjusted upward because of cost-of-living and maintenance). The city has recently increased densities in its town center. Of the potential 400 units in this project, 20 percent will be for low and moderate income households.

The city has established a Below Market Rate (BMR) program whereby the city instructs developers of the price range of housing the city would be interested in having built as part of a market housing development. These units would then be sold at below market rates to qualified purchasers. The resale of these units is controlled by deed restriction. To date, the BMR program has been used in conjunction with density bonuses and has resulted in two BMR units.

The city of Cupertino recently entered into a contractual agreement with the Santa Clara County Housing Authority which makes the housing authority responsible for the administration of the city's BMR program. In addition, staff is investigating the possibility of using Community Block Grant funds to leverage additional funds from a local savings and loan association to use in a mortgage assistance program.

During the past four years, Cupertino has become increasingly involved in the question of balancing job and housing growth. The continued creation and expansion of job centers in the city has caused the cost of housing to increase sharply during this period. In an effort to address this problem, both the city council and planning commission have shown flexibility in rezoning additional lands for residential uses and upzoning land for increased residential uses.

#### LIVERMORE

The city has adopted - as part of its general plan - a policy which requires developers of new subdivisions to provide 10 percent of the units for low/moderate income households. As part of the city's housing and community development block grant application, Livermore has included a proposal to set aside \$195,000 for landbanking. The city is also interested in identifying sites for low and moderate income housing with private developers.

Presently, the city council is considering granting priority processing as part of the city's Residential Development Plan (RDP) for a proposed 125-unit mixed income apartment development. Lexington Homes, Inc. plans to begin construction later this year on the 125-unit development, of which 47 units will be set aside as Section 8 assisted rental housing. The city is considering granting priority processing for the proposed development largely because the HUD approval schedules are erratic and do not coincide with the RDP process. The city has recognized that the HUD approval schedule will, at least in the short term, continue to be erratic and that proposed developments which include low and/or moderate income housing units must proceed when the funds and developer are available.

In light of these considerations, the following revisions to the city's growth management program have been offered by city staff and some councilmembers:



1. Establish priority processing in the Residential Development Plan (RDP) for assisted housing proposals so long as the total number of permits issued for such proposals do not exceed 25 percent of the total number of permits available every four years.
2. Require, however, that assisted housing applications have:
  - a. federal or state approval;
  - b. a minimum number of points from the rating system contained in the RDP;
  - c. at least 20 percent of the units designated for low income; and
  - d. the remaining units affordable for moderate income households.

During the course of this study, the city council amended the city's general plan to require that at least 10 percent of each new development be affordable to families of low income. In addition, the city is considering charging an in lieu fee when a development is unable to meet the 10 percent requirement.

#### NAPA

The city of Napa has an adopted growth management program which includes the following provisions relating directly to low and moderate income housing.

1. A rating system that gives "bonus points" to developers who include low and moderate income housing as part of their developments;
2. Exemptions from the rating system for developments providing 20 percent low and 50 percent moderate income housing as part of the development; and
3. Exemptions from the rating system for senior low or moderate income housing using Section 8 or 202 funding.

In addition, staff has mapped potential sites for low and moderate income multi-family units on sites with three or more acres. Recently, the city electorate passed an Article 34 referendum giving the city housing authority authorization to purchase and continue operating a 50 unit elderly/handicapped development. HUD representatives have been very cooperative with city staff on recently submitted assisted housing proposals. The city staff, however, is concerned with the lack of consistent definitions for low and moderate income and the lack of current housing data.



### III. OVERVIEW OF NEEDS AND SUGGESTIONS

During the course of identifying measures which the three cities could use to obtain more affordable housing, individuals and staff from Cupertino, Livermore, and Napa identified general areas which they felt needed to be further investigated, and which can apply to other jurisdictions.

What follows is a statement of those needs and suggestions. They are based on the following sources: (1) the interviews conducted during the preparation of the second working paper; (2) the third working paper; and (3) subsequent comments from participating staff in each city.

#### NEEDS AND SUGGESTIONS

The stated needs and suggestions fall into two categories: (1) better coordination/cooperation, and (2) increased understanding.

##### Better Coordination/Cooperation

###### HUD-Local Coordination:

Better coordination between local jurisdictions and HUD is needed, especially regarding commitments for Section 8 New and Existing units. Local jurisdictions need to obtain firmer commitments from HUD on the number of potential Section 8 New and Existing units a city can receive in any one year. Similarly, a commitment is needed from a jurisdiction as to availability of sites and staff support.

Two suggestions expressed as possibilities in addressing this need include: (1) the elimination of the NOFA procedure, and (2) the establishment, by HUD, of a yearly percentage which would guarantee local jurisdictions a specific percentage of their goals as stated in the Housing Assistance Plan (HAP).

Both of these suggestions are related to and are an important part of an Areawide Housing Opportunity Plan (AHOP). The AHOP reflects estimates of housing needs and goals developed by local governments throughout the Bay Area. The AHOP proposes that each locality receive at least enough housing assistance funds over the next three years to meet 15% of the current unmet need for such assistance. For most localities, the Housing Assistance Plans reflect that much or more as a goal.

The AHOP has already been prepared and has received support directly from elected officials who represent 71% of the region's jurisdictions and 88% of the region's population. This support evidences a recognition on the part of elected officials of the importance of increasing housing opportunities for low and moderate income people. In addition, the AHOP has been endorsed by ABAG's Executive Board and is now waiting final approval from HUD.

In the present NOFA procedure, HUD offers subsidies through banks and developers, not through local jurisdictions. HUD advertises for developers to construct housing or undertake substantial rehabilitation in certain areas. HUD then approves the housing projects if they generally conform to the local plan and if they satisfy HUD criteria. This process has resulted in (1) uncertainty that a jurisdiction will be selected for new construction or rehabilitation subsidies; (2) local government initiative being by-passed; and (3) local jurisdictions competing with each other for limited amounts of subsidies. Cities need to have a clear understanding of when and how much subsidized housing will be available.

From the HUD point of view, greater certainty that local jurisdictions have laid the groundwork for successful projects is needed. The AHOP would give HUD these assurances and includes a more coordinated method of predesignating sites and allocating limited HUD financial resources. However, a local commitment is needed both in terms of local policy and land use regulations. HUD often hears complaints about its site selection criteria for assisted housing developments. While these complaints may be legitimate in many cases, mention is rarely made of why the worst remaining multi-family sites are left for assisted housing. In regard to sites, HUD could greatly aid local jurisdictions by inspecting a proposed housing development site for suitability before a city begins acquisition procedures. Similarly, local jurisdictions could provide assistance to developers regarding site selection and local community support. In addition, HUD should offer more technical assistance to aid local staffs in addressing the following questions:

1. What are appropriate densities for large family housing developments?
2. What are appropriate interior and exterior living spaces for seniors and families?
3. In the Bay Area, what are good examples of family housing developments?
4. How does a potential low and moderate income development conform with local design standards and are these standards excessive?

#### Intergovernmental Coordination and Cooperation:

Intergovernmental coordination and cooperation among the HUD area office, State Department of Housing and Community Development (HCD), ABAG, and local jurisdictions needs to be improved so as to avoid duplication of effort and make best use of available resources. It is essential to the development of low and moderate income housing units to recognize the importance of effective advocacy and cooperation by staff and officials at all levels of government. Through maximum coordination and cooperation among the different levels of government, more affordable housing will be constructed.

HUD, by virtue of its stature, has been viewed at times as an adversary and roadblock in local jurisdictions' attempts to provide low and moderate income housing opportunities. Cities and counties now feel that this situation has measurably improved due largely to better communication and cooperation between local staffs and the various HUD representatives. HUD and local jurisdictions need to continue these improved communications so that increased understanding and sensitivity to each other's concerns and problems can continue.

The State Department of Housing and Community Development possesses a wide range of expertise and knowledge that can be the basis for providing technical assistance to local jurisdictions. HCD has recently expanded its efforts to provide local jurisdictions with information on innovative housing techniques throughout the state. In addition, HCD has been aided by the signing of recent State legislation into law which will provide additional funds for local communities and expand HCD's role in providing technical assistance to local governments. HCD is now familiarizing itself with the opportunities and obstacles present in the local government process.

ABAG needs to broaden and expand its role in the housing area. ABAG can best accomplish this by providing technical assistance in the form of research (i.e., Manufactured Housing Study); preparation of surveys and reports (i.e., Inventory of Surplus Lands); and testimony before local city councils, planning commissions, housing advisory groups, and local citizen groups. In addition, ABAG can assist local governments in their attempts to provide lower cost housing opportunities by serving as liaison for local jurisdictions, where needed, in their dealings with other levels of government.

While the provision of affordable housing still remains largely a local political struggle, it is important for all levels of government to get involved and where possible assist local staff. From this kind of cooperation can emerge innovative ideas and concepts that can aid local staffs in selling low and moderate income housing to local decision-makers.

Increased cooperation could lead to the use of common definitions of low and moderate income. Similarly, more current housing data, could be prepared in the following three areas: (1) type of housing available in different areas and cost; (2) housing needs of new residents in a community; and (3) the actual price of existing homes sales so that a better record of the true price of housing can be maintained. Where possible this data should have applicability and transferability among the public agencies using it.

#### Increased Understanding

#### Good Management of Assisted Housing Units:

Both HUD and local elected officials are interested in successful assisted housing developments. HUD on the one hand is interested in local jurisdictions addressing the needs of low and moderate income



people, while elected officials are interested in successful developments because of the potential impact of unsuccessful ones on the immediate neighborhood and surrounding community.

HUD stresses addressing management concerns in the development stage to achieve initial and continued success of an assisted housing development. These management concerns include the design, size, location, and income mix of a development. Large family developments built at a density of over 25 units per acre have posed significant management problems in the past. Smaller developments at no more than 25 units per acre or housing on scattered sites appear to have a much better chance of success. In addition, having mixed-income rental developments (i.e., less than 50 percent assisted) is an approach which can lead to better management.

Since HUD's experiences are much more varied and extensive, it is suggested that HUD (1) identify those subsidized developments which they consider to be successfully managed; (2) delineate the managerial techniques employed in such developments, especially in those instances where new management greatly improved a failing development; and (3) identify those developers and managing agents that HUD feels are most capable and committed to the long-term success of a development.

It is recognized that HUD possesses expertise and knowledge which can be useful to local staffs. Local staffs are interested in using HUD's skills to assure greater success of assisted developments once they are built. It is important that the local citizens view completed developments as being successful, since developments which are not thought to be successful are often pointed to when opponents of low and moderate income housing attempt to block the construction of other units.

In short, good management of assisted units is recognized as an important ingredient in the long-term success and acceptance of both existing and future developments.

#### Jobs/Housing Development:

For fiscal reasons many local officials believe it is fiscally important for cities to encourage job development and limit residential growth. It is equally important that a more complete assessment of job and housing developments be undertaken to ascertain both their incremental and cumulative impacts on the cost of housing as well as on the provision of low and moderate income housing opportunities. If jobs grow faster than the number of available housing units, this is likely to increase the number of people who work in a city but who must find housing elsewhere. Such a situation not only strains transportation facilities during commute hours, but increases the demand for housing. This increase in the demand for housing without a corresponding increase in the supply of housing results in higher home prices and rents. Low and moderate income people bear a disproportionate share of these increases. In the long term, the low availability and high cost of housing could slow economic development. Consequently, while it is

important for cities to pursue job development, it is also important that they meet demand for housing. In the long term, the low availability and high cost of housing could slow economic development. In short, cities need to assess their job and housing growth in an attempt to strike a balance between these two. Increasing jobs while restricting residential development is likely to have negative impacts on low and moderate income households and to make it nearly impossible for such households to continue living and working in these communities.

#### IV. STRATEGIES AND APPROACHES

The strategies and approaches which follow are based on the interviews obtained during the preparation of the second working paper and local staff's perception of inclusionary land use measures having the best opportunity for implementation in each of the three cities. It should be noted that while there are obvious similarities between the recommended strategies and approaches for each of the three cities, an attempt was made to tailor the recommendations to address the various opportunities and obstacles present in each city.

#### CUPERTINO

##### STRATEGIES AND APPROACHES

These strategies and approaches are thought to have the best likelihood for success in Cupertino. They include:

1. Continued use of density bonuses and priority processing as part of the city's BMR program.
2. Establishing an education process aimed at (a) obtaining neighborhood acceptance once a site has been selected for a development which will include BMR units; and (b) informing people about the relationships between job development and existing housing needs.
3. Establishing a public-private partnership aimed at familiarizing and encouraging private developers with the city and the BMR program.

##### Density Bonuses and Priority Processing

Both density bonuses and priority processing are integral parts of Cupertino's Below Market Rate (BMR) program. Density bonuses are granted to developers as incentives in order to meet the requirements of the BMR program. The city in an attempt to mitigate possible negative environmental impacts due to the granting of density bonuses has planned for the maximum number of units in areas where density bonuses are likely to occur. By planning for the maximum number of units, as opposed to a mid-range number, the city circumvents possible negative environmental impacts (e.g., increased traffic) due to the granting of density bonuses. This planning for the maximum holding capacity of an area can eliminate the necessity of preparing individual environmental impact reports on each development. In effect, the preparation of what is, essentially, a master environmental impact report can eliminate a significant time delay in the construction of a development. If a development's impacts are less than the impacts identified in the master environmental impact report for a particular area, then the developer only has to file a negative declaration thereby saving the time and expense of preparing a full environmental impact report. In exchange for this, the city obtains affordable housing units.



In conjunction with density bonuses, the city uses priority processing as an incentive in the BMR program. By giving priority in the processing of permits to developments which include BMR units, the city is expressing a desire for additional affordable housing units to be constructed. From the developer's point of view, priority processing helps eliminate costly time delays and uncertainty. By eliminating some delay and risks, per unit construction costs are reduced--which when combined with the density bonus incentive further enables developers to provide BMR units.

### Educational Process

Cupertino staff has stated that to date there has been little problem with local citizens understanding how the Below Market Rate program operates or the intent of the program. However, during the course of the interviews used in the preparation of the second working paper, there were some indications that at least some local citizens do not understand what the BMR program is all about and as a consequence had misgivings about the program. In addition, many felt that these misgivings are based on community fear of what low and moderate income housing looks like and a general lack of knowledge about the needs of the present residents of Cupertino.

The city council, planning commission, and staff have all tried to overcome these misgivings and lack of knowledge. However, an ongoing community-wide education process could deal with these concerns. One approach might be to conduct neighborhood workshops outlining the BMR program and its components. These workshops can also be used to increase understanding of the relationships between job development and existing housing needs. Perhaps the most significant benefit which could be derived from these neighborhood workshops is a broader base constituency for the construction of affordable housing. This, of course, will only come about as a result of increased understanding and acceptance.

### Public-Private Partnership

As the need for more affordable housing grows, so does the need for increased cooperation between the public and private housing sectors. The BMR program can result in additional moderate income ownership units being constructed with no government assistance. This can be achieved through the combined use of density bonuses, priority processing, and master environmental impact reports. The City of Irvine in Orange County has used the master environmental impact report approach to allow the landowner/developer the opportunity to provide higher density developments thereby lowering the per unit cost.

A foundation for increased cooperation needs to be established. This cooperation will emerge only if there is an increased understanding on the part of both city and developer of the concerns that must be addressed in developing affordable housing (e.g., community fear). In addition, the end product--additional affordable housing units--must be a cooperative goal which both the public and private sectors are striving to achieve.

## LIVERMORE

### STRATEGIES AND APPROACHES

The following are the strategies and approaches thought to have the best opportunity for success in Livermore. They include:

1. Revising the Residential Development Plan (RDP) to include:
  - a. Establishment of priority processing for assisted housing units up to a maximum of 25 percent of the total available permits issued every four years.
  - b. The granting of bonus points for those developments which exceed the proposed 10 percent requirement, but which do not qualify for RDP exemption.
  - c. Establishing a four-year goal to obtain a specific number of low and/or moderate income housing units. This would be tied into 1a.
2. Offering density bonuses to developers of low and/or moderate income housing after a complete evaluation of the potential effects of any and all granted or to-be-granted density bonuses is completed (i.e., an environmental evaluation).
3. Implementation of the city's Landbank Program for the purchasing and holding of land for future low income housing.
4. Establishing an educational process to familiarize people with the appearance of assisted housing and how the provision of such housing can be used to address local needs, especially the relationship between job and housing development.
5. Forming a public-private partnership to encourage private developers to work with the city and vice versa to further efforts to expand the supply of low and moderate income housing.

The above strategies and approaches are intended to provide a framework within which the city of Livermore can work. It is recognized that if the city is to be successful in its attempts to provide additional lower cost housing opportunities, then the city should approach the addition of such housing cautiously. Therefore, it is stressed that the city view the above measures as a comprehensive framework from which individual measures can be used incrementally.

### Revisions to the Residential Development Plan (RDP)

The three potential revisions to the RDP include: (a) priority processing; (b) bonus points; and (c) a four-year goal.

- a. Priority processing

Currently, Federal announcements of available funds and approvals of potential projects are irregular and erratic. At the same time, the RDP has a limited application period which is fixed and occurs once a year. As a consequence, the present Federal and RDP procedures do not necessarily coincide. This situation could endanger any potential assisted housing development and could perhaps call into question the city's commitment to providing lower cost housing opportunities.

In light of the above, it is recommended that priority processing be established as part of the RDP for assisted housing proposals up to a maximum of 25 percent of the total permits every four years. Priority processing would allow proposed subsidized developments to receive immediate review outside of the RDP competitive process. Such proposals, however, would still be subject to obtaining a minimum number of points from the RDP's rating system.

b. Bonus points

Bonus points can be used as an effective incentive to the provision of low and moderate income housing opportunities. The granting of bonus points would be used in conjunction with the RDP's rating system. In order to qualify for bonus points, a potential development would have to exceed the proposed 10 percent requirement. An example would be a development which proposes to have 30 percent of its units available to moderate income households. After the proposed development has been rated, additional or bonus points are granted based on the city's recognition that the extra moderate income units will aid the city in addressing local needs.

c. Establishment of a four-year goal

The establishment of such a goal is tied closely to priority processing as previously mentioned. By setting a four-year goal as opposed to an annual goal, the city allows itself more flexibility to meet its housing needs. Also, the four-year goal, when combined with the units that could be potentially exempted from the RDP, act as a floating reserve which can be used as an incentive to developers of potential assisted and non-assisted units. Additionally, the city could tie the establishment of a four-year goal together with its goals as contained in the Housing Assistance Plan (HAP). By setting a specific four-year goal for the construction of low and moderate income housing, the city not only refines its position but provides developers with an incentive to submit



proposals that contain assisted and non-assisted low and moderate income housing units.

### Density Bonuses

Density bonuses could be granted to developers who wish to include lower cost units as part of their developments. As mentioned earlier, density bonuses do not necessarily mean that purchasers of market units in a development are subsidizing purchasers of lower cost units in the same development. Instead, if in exchange for a density bonus the developer agreed to forego some profit, then the savings could be passed on directly to the purchaser of the lower cost unit. There has been some speculation that by allowing higher densities on some parcels you are increasing the profit or return on investment to the developer. This is true, but if a city allows density increases, it must require that the added units be made affordable to low and/or moderate income households and that the developer forego some profit by directly passing this saving on to the purchaser.

The granting of a density bonus should not be viewed on a project-by-project basis. Instead, it is important that a city look at the granting of density comprehensively. It is also important when viewing density bonuses, that the relationship of land availability and zoning practices be considered. Before an increase in permissible density is granted, an evaluation of the degree of neighborhood impact, the adequacy of municipal services and facilities, and conformance with all applicable parking, open space, design, etc., requirements should be undertaken. It is because of these potentially negative impacts that density bonuses should only be granted after a comprehensive analysis has been completed.

Planned development (PD) zoning is a useful technique for organizing higher densities compatible with existing neighborhoods. PD zoning is more flexible, is less concerned with site specific development and densities, and permits density bonus units to be accommodated more easily. It also requires a comprehensive analysis which is a necessary part of an inclusionary program.

Particularly in instances where public funds are used to create lower cost ownership units, Livermore should consider means to preserve these units in the affordable stock. The most effective mechanism used to protect the stock of lower cost units is a deed restriction (i.e., right of first refusal) which deals with the resale of the unit. Such a program could be administered by the city or the local housing authority at a minimal cost (e.g., City of Palo Alto's Below Market Rate program).

### Implementation of the City's Landbank Program

The purchasing and holding of land for the future development of low income housing should be actively pursued. There is a need to preserve sites now before those available sites no longer exist or become too expensive to purchase. Ideally, this land would either have the proper zoning already or would be properly zoned for subsidized units once



purchased. This may require a city council commitment to zone city owned land for low income housing when needed. Also useful is HUD agreement on the suitability of proposed sites prior to purchase by the city. This will save money in the short term and eliminate possible misunderstandings between the city, HUD and a potential developer in the long term.

### Educational Process

The establishment of an educational process could greatly facilitate understanding and support for the development of affordable housing. This educational process should be aimed at addressing what exactly is meant by low and moderate income housing and how the provision of such housing helps to meet local needs. In addition, the educational process should increase understanding of the relationships between future job development and existing housing needs.

An ongoing community-wide education process can deal with misconceptions and inform local citizens as to the present needs of the city. Such a process could include:

1. A slide show presentation to give a visual illustration of what low and moderate income housing can look like (ABAG has recently developed such a presentation and has shown it to a number of elected and appointed local officials, housing advocate groups, and concerned citizens);
2. A van tour to other cities which have successfully built and operated low and moderate income housing (such a van trip occurred in November, 1979); and
3. Printed material which describes the various government assisted housing programs and who can qualify to participate (ABAG is currently preparing such material).

The second key element to an educational process is relating job development with the provision of low and moderate income housing. The potential for job growth in Livermore is great; however, restricting housing development in the short term could cause housing prices to increase and, in the long term be a deterrent to job development. The potential negative impacts in the short and long term fall most heavily upon low and moderate income households. While it is important for housing programs to address local needs, it is equally important that projected job development match the skills of the local labor force. Job development is integrally related to housing growth. Consequently, the two should be considered in unison, especially in regards to local efforts to provide additional lower cost housing opportunities over time.

## Public-Private Partnership

There is a strong need for a public-private partnership to exist if more affordable housing opportunities are to become a reality. There is a need to break down existing barriers that cause misunderstanding and suspicion between developers/builders; elected/appointed city officials; city staff; and private citizens.

The Building Industry Association (BIA) of Northern California has offered its cooperation in the establishment of such a partnership as have many individual developers/builders. In addition, many officials and citizens have expressed a willingness to cooperate with the private building sector in an attempt to reach the goal of making additional lower cost housing opportunities available. The city should take advantage of this interest and attempt to get all of the various parties together to pursue the goal of more affordable housing.

The City is also proposing the following housing activities:

1. Local Non-Profit Housing Development Corporation:

A new, non-profit corporation is being formed to develop low-income housing, and also to help implement the City's Inclusionary Program. The non-profit may purchase single-family houses or duplexes in new subdivisions at a below market price for rental to low-income persons. This idea seeks to combine aspects of successful programs in Palo Alto and Sacramento. In addition, the non-profit corporation may also develop new family rental housing.

2. Housing Authority Tenant Cooperative:

Local housing authorities can sponsor low/moderate-income cooperative projects without referendum authority. Financing may be available from CHFA, with Section 8 rent subsidies. A consultant can be hired to form the non-profit cooperative, and to establish resale controls on equity shares.

3. Local Housing Finance Agency:

A local housing authority may act as a finance agency to arrange tax-exempt mortgage financing for low/moderate income rental housing, under either the Section 11(b) Program (100% Section 8), or the IRS 103(c) provision (20% plus Section 8). Tax-exempt financing offers some advantages to private builders, in comparison with the Government National Mortgage Association (GNMA) Tandem Plan and California Housing Finance Agency (CHFA).

## STRATEGIES AND APPROACHES

1. Preserving the following elements contained in the city's growth management program:
  - a. Bonus points to developers who include low and moderate income housing as part of their developments.
  - b. Exemptions to the rating system for developments providing 20 percent low and 50 percent moderate income housing as part of their development.
  - c. Exemptions from the rating system for senior low or moderate income housing using Section 8 or 202 funding.
2. Establishing an educational process with the intent of familiarizing local citizens with what exactly low and moderate income housing looks like and how the provision of such housing can be used to address local needs.
3. A public-private partnership to encourage private developers to work with the city and vice versa to further efforts to expand the supply of low and moderate income housing.

### Preservation of Bonus Points and Exemptions

The city's growth management program is still relatively new. As previously mentioned, the city is considering granting exemptions to the RDMP rating system to some proposed developments which include low and moderate income housing opportunities. The existing bonus points and exemptions should be preserved as integral parts of the RDMP. As time elapses, a better evaluation can be made as to effectiveness of the bonus points and exemptions as incentives.

### Educational Process

The establishment of an educational process which would increase both the knowledge and understanding of what low and moderate income housing can be would be useful in Napa. Such a process should be ongoing and aimed at dealing with the misconceptions local citizens presently have about lower cost units. Through this process, efforts should be made to better inform the local citizenry as to how the provision of low and moderate income housing can be used to address the present needs of the city. This process could include the following:

1. A slide show presentation to give a visual illustration of what low and moderate income housing can look like;
2. A van tour to other cities that have successfully built and operate low and moderate income housing;

3. Printed material describing the various government assisted housing programs and who can qualify to participate.

#### Public-Private Partnership

A strong public-private partnership can assume the lead in the development of more affordable housing opportunities. There is a need to breakdown existing barriers that presently exist among developers/builders, elected and appointed officials; city staff; and private citizens.

The Building Industry Association (BIA) of Northern California has offered its cooperation in the establishment of such a partnership as have many individual developers/builders. In addition, many officials and citizens have expressed a willingness to cooperate with the private building sector in an attempt to reach the goal of making additional lower cost housing opportunities available. The city should take advantage of this interest and attempt to get all of the various parties together to pursue the goal of more affordable housing.



## V. SUMMARY

In the course of ABAG's work on this project, each of the three cities has identified a need for: 1) better coordination between HUD and the local jurisdictions; 2) better coordination in the housing field among the various levels of government; 3) good management as an important factor in an assisted development's success or failure; and 4) relating the provision of low and moderate income housing to job development.

The adoption of an Areawide Housing Opportunity Plan (AHOP) and more assistance from HUD staff to local jurisdictions would greatly aid in addressing the first need. The AHOP would give local jurisdictions more of a voice in subsidy allocations and qualify the Bay Area for additional housing subsidies and discretionary community development money. More assistance from HUD staff to local jurisdictions could be offered by inspecting a proposed housing development site for suitability before a city begins acquisition procedures. Similarly, local jurisdictions could provide assistance to developers regarding site selection and local community support. However, local commitment to construct assisted housing both in terms of local policy and land use regulations is needed. As a consequence, better HUD-local coordination is a two-way street.

It is important that all levels of government agree to the overall objective of providing additional low and moderate income housing opportunities. It is equally important for local situations to be more fully understood and appreciated by the various governmental agencies involved. To this end, HUD, HCD, and ABAG need to cooperate in providing assistance to local governments in achieving the overall objective. Better intergovernmental coordination could result in:

1. uniform definitions of the terms low and moderate income;
2. more current housing data;
3. joint programs which take advantage of Federal and State monies and expertise;
4. elimination of some duplicative work; and
5. the development of housing programs which are more focussed in terms of dealing with the needs of low and moderate income people.

While court decisions and legislative acts will assist in meeting the objective of better intergovernmental coordination, the provision of affordable housing is still largely a local political decision. The assistance of all governmental agencies is needed to aid local communities in addressing their needs.

Good management of assisted units is an important ingredient in both the long term operational success of a development and local citizen

acceptance. Local staffs simply need to know more about the managerial techniques employed in successful developments as well as those developers and managing agents who are most committed to the long-term success of a subsidized development.

In relating the provision of low and moderate income housing with job development, cities should be careful to assess the impacts of promoting job development at the possible expense of lower cost housing opportunities. While this is clearly a local responsibility, the impacts of a city promoting only job development at the expense of housing can have very detrimental impacts not only on lower cost housing opportunities in that particular city, but on the economic well-being of the region as a whole. Obviously, greater cooperation is important.

There are three strategies and approaches shared by the three cities. They include: 1) priority processing; 2) establishment of an educational process; and 3) a public-private partnership. Cupertino utilizes density bonuses with priority processing as part of the city's Below Market Rate (BMR) program. Napa utilizes priority processing when it grants exemptions under its growth management program, and Livermore is presently considering incorporating this concept into its growth management program. Density bonuses is a strategy being recommended for consideration in Livermore.

It is interesting to note that developers interviewed in the preparation of ABAG's second working paper (Appendix B) generally favored the use of both density bonuses and priority processing as a means to obtain lower cost units. In granting density bonuses, cities should work closely with developers to assure that purchasers of market rate units are not subsidizing purchasers of lower cost units. An agreement should be established in advance which assures that the lower cost units are being made more affordable by the passing on of portions of increased builder profits directly to the purchasers of the lower cost units. Cities should also view density bonuses on as comprehensive a level as possible to avoid possible negative environmental impacts. Additionally, once lower cost units are built cities should consider implementing effective measures to maintain the units in the stock of affordable housing over time. The most effective measure developed to date is the right of first refusal (i.e., deed restriction) in the resale of these units.

The establishment of an educational process to better inform citizens about low and moderate income housing is important if there is to be a broad base of community support for the construction of such housing. There are currently several misconceptions as to what low and moderate income housing is and who benefits from it in the public's mind. These misconceptions must be overcome by establishing an educational process which can be incorporated into the ongoing housing programs of each city.

A public-private partnership between local government and developers needs to be established to overcome suspicion and improve relations.

These improved relations could result in a better understanding of the problems and concerns confronting both sectors. The intent of such a partnership would be to increase the number of lower cost housing units.

The list of strategies and approaches offered in this report for each of the three cities is by no means a comprehensive list of the type of innovative housing techniques available to local jurisdictions. Mortgage assistance plans; use of manufactured housing as a source of affordable ownership housing; creation of non-profit housing corporations to acquire and develop low income housing; cooperative housing; the use of federal, state, local, and school district surplus lands for the development of affordable housing; the use of tax-exempt revenue bonds to provide below market interest rate mortgages for low and moderate-income buyers of inclusionary sales units; and other approaches (see Appendix D) are all innovative techniques presently available for use by cities in the state and region.

The list of strategies and approaches offered for each of the three cities in this report are also viewed as first steps to more sophisticated inclusionary housing programs. To date, the city council of Livermore has approved construction of a 125 unit mixed income development. Of the 125 units, 47 will be set aside for Section 8 (see Appendix E). This was the only city in which such significant progress was achieved during the course of the project.

The strategies and approaches recommended for each city in this report are viewed as initial steps. It is recognized that they only scratch the surface in terms of the entire need for low and moderate income housing opportunities, but it is important for cities to start addressing this need before the present situations is exacerbated. ABAG will continue to assist these cities and others in the region, on request, as a part of its implementation of the adopted AHOP and as a part of its program of ongoing assistance to member governments.

Finally, providing affordable housing is a shared responsibility, one which every jurisdiction must address. However, while economic considerations are important in the development of affordable housing, it is the social forces (e.g., homeowners' groups and merchants' groups) which often are the most formidable barriers in preventing or significantly delaying proposed housing developments. They express a fear of affordable housing in most communities. Steps must be taken to address these fears. It is only through addressing them in a forthright manner that more affordable housing will become a reality.





APPENDIX A

REVIEW OF INCLUSIONARY LAND USE MEASURES PROGRAMS

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## I. INTRODUCTION

Provisions for low and moderate income housing have long been viewed as something that cities and housing authorities provide with federal subsidies. While many cities and housing authorities continue to provide low and moderate income housing through this mechanism, it is becoming increasingly apparent that public action alone cannot adequately meet the needs of low and moderate income households. In addition, many cities have found that very few developers willingly participate in government housing programs. As a consequence, a few cities across the nation--many of which are in California--have devised innovative techniques that seek to increase the stock of low and moderate income housing. These innovative techniques involve the use of federal money, local money, private sector money, and/or a mix of the three. These innovative techniques have been incorporated into housing programs which take advantage of public-private partnerships in providing lower cost units.

One of these innovative techniques/housing programs is to provide incentives to developers to provide additional lower cost units. This has been accomplished by providing such things as: priority processing, off-site improvements, etc. In short, many jurisdictions are recognizing their limitations and are taking actions that will provide additional lower cost units.

The intent of this report is to detail the experiences of those jurisdictions using innovative techniques, which are actually a form of inclusionary land use measures, throughout the nation, state, and region. An inclusionary measure is a mechanism used by a jurisdiction to expand the supply of affordable housing to low and moderate income households. The jurisdictions selected, ten in all, were selected because each uses different innovative techniques and have experienced varying degrees of success. The ten jurisdictions are Akron, Ohio; Evanston, Illinois; Dallas, Texas; Santa Cruz County, City of Los Angeles, Santa Maria, Irvine, Davis, Palo Alto, and Petaluma in the state of California. These ten jurisdictions are grouped into three categories: nation, state, and region.

One final note, the terms "low" and "moderate income" used throughout this report are defined as below 80 percent of median income for "low" and between 80-120 percent of median income for "moderate." These definitions are consistent with those used by HUD, other federal agencies, and many local cities and counties.



## II. DESCRIPTION OF INDIVIDUAL INCLUSIONARY PROGRAMS

Some of the following examples represent unique situations where many different factors have come together to make the provision of low and moderate income housing possible. Nevertheless, it is important to identify how special circumstances have been utilized with imaginative approaches which resulted in additional low and moderate income housing.

### NATION

#### A. Akron, Ohio

The Akron Metropolitan Housing Authority has been successful in building homes on scattered sites for low and moderate income families throughout Akron and in the adjoining suburbs of Barberton and Cuyahoga Falls. The building of scattered low and moderate income family units has been accomplished through the housing authority's Landbank Residential Parcel Program. A recent example of this program in action is the Orchard Park development. The housing authority purchased the 14.4 acre site with funds built up from the operation of and land sale receipts from temporary war housing. The temporary war housing was originally built for factory workers during World War II and was subsequently inherited by the housing authority in the 1940's. Much of the housing is on scattered sites throughout Akron and the surrounding suburbs and has since been replaced with modern, low income housing on the same sites. Sites which the housing authority decided to dispose of because of non-compatibility of uses in the area (i.e., polluting factories) were sold for about \$4,000 per lot which the housing authority has used in its Landbank Residential Parcel Program to purchase additional low and moderate income residential sites.

The 14.4 acre Orchard Park site was purchased with the housing authority's landbanking funds. The site scheduled for eventual residential development as a second phase of an adjacent new residential development. The first phase of the residential development included 3 and 4 bedroom homes which were sold for an average of \$60,000. The housing authority petitioned the city council of Akron to allow the housing authority to purchase the remaining vacant 14.4 acre parcel from the developer for the immediate construction of 70 low and moderate income detached family units.

After deliberations, the city council granted approval of the housing authority's plan with two conditions: 1) that the housing authority and developer come to terms on a fair market value for the land; and 2) that once the 70 housing units were completed, the housing authority buy the homes and offer them for sale to owner-occupied low and moderate income families. The housing authority complied with both conditions set forth by the city council. An agreement between the housing authority and developer on a fair market value for the parcel was reached. The housing authority then purchased the parcel from the developer. Next, the housing authority and developer reached an agreement whereby the housing authority would purchase the completed 3 and 4 bedroom units, at cost, from the developer. The developer was motivated by civic pride and was glad to be able to "put something back into the community." The agreement resulted in the housing authority purchasing the homes for \$28,000 - \$35,000 and then selling them to 70 qualified low and moderate income families for approximately the same price.

## B. Evanston, Illinois

About a year ago, twenty-six family rental units on 10 scattered sites and 101 units for the elderly in a highrise structure opened for occupancy in Evanston, Illinois--an upper income suburb in the Chicago area. The 26 family units were all built on vacant lots with no more than four units to a site. The 11-story highrise for the elderly was built two blocks from Evanston's central business district, also on a vacant lot. The ten scattered sites for the family units and the site for the elderly highrise were all purchased by the Cook County Housing Authority as part of its landbank program. However, before the purchase of the eleven sites took place, the housing authority in cooperation with area HUD office developed a financial scheme that would lower the per unit cost of a family unit so as to be eligible for federal funds.

The financial arrangement that was developed, allowed the housing authority to combine the total costs of developing the 26 family units with the total costs of developing the 101 elderly units. The 2.3 million dollar elderly project had a per unit cost of about \$23,000 as compared to the \$40,000 per unit cost for the 1 million dollar project for families. By averaging the costs of the family and elderly units together, the cost per unit for the combined 127 units averaged out to about \$26,000 for the area. By averaging the cost of both projects, the Cook County Housing Authority was able to meet the federal maximum of about \$26,000 for the area. Had this averaging not been allowed, it would have been impossible to have built the family units.

As a matter of policy, Evanston and the Cook County Housing Authority scattered the family units around the city. According to Victor L. Walchirk, Executive Director of the Cook County Housing Authority, by scattering public housing on dispersed sites throughout the city when accompanied by good design makes such units more acceptable to an upper income community such as Evanston.

Presently, about two-thirds of the tenants in the family units are Black and the elderly highrise is filled to capacity. There are waiting lists for both types of housing.

## C. Dallas, Texas

The City of Dallas has a number of programs which involve public-private cooperation. Of all the programs which the city participates, two are aimed at providing more low and moderate income housing opportunities.

The first program is the Area Redevelopment Program which encompasses a 2.5 mile radius in the downtown area. In this program, the city sells parcels to developers at a written down price and provides off-site improvements at no cost to the developer provided the development begins as a moderate income housing project. Additionally, the city insures the risk of the developer by assuring the developer at the outset of the development that if it becomes financially unfeasible for the developer to continue the project as a moderate income project, then the developer can develop the remainder of the units in the project and sell them at market rates or the city will purchase the remaining acreage from the developer at the original price paid by the developer. In a recent instance, a developer began a moderate income housing project on a 60-acre site. The project was to be developed in three phases, each phase developing approximately 20 acres. The first phase resulted in the development of moderate income housing units. However, rising construction costs resulted in the second phase being more middle income housing and sold as such to people who wanted to live within walking distance of their place of work. When it came time to develop the third and

final phase of the project, it became economically unfeasible for the developer to continue. Consequently, the city purchased the remaining 20 acres from the developer.

The second program is operated by a non-profit development corporation. In this program, the development corporation purchases apartment buildings from local savings and loan associations. These apartment buildings represent the saving and loan associations' "bad paper" (e.g., defaulted loans). The individual units within the apartment buildings are converted into condominiums by the development corporation. The individual units range in size from 2-4 bedrooms and are sold for \$12,000 - \$16,000 depending on the size of the unit. In most cases, buyers have been able to secure 90-95 percent loans.

## STATE

### A. Santa Cruz County

In June, 1978, the voters of Santa Cruz County approved Measure J, a growth management ballot proposition which went into effect in January, 1979. In approving the growth management measure, the voters also mandated a 15 percent low and moderate income housing factor as a percentage of all new housing units constructed in the unincorporated areas of the county.

Since the passage of Measure J, an eight-unit elderly low income rental project has been completed. The completion of this project has met with local citizen and developer approval. The eight-unit project is in keeping with the Santa Cruz County Housing Authority's policy of scattering subsidized housing, as well as addressing local citizen concern for small, low density housing projects. In addition, potential developers are given a range-of-options as to potential sites and federal financing programs.

The major key to the success of this project is the Section 8 existing program which guarantees a minimum rent to the developer. Additionally, the housing authority applies its HUD approved authority to add a 10 percent adjustment for above-average units and promises developers that rent levels will be adjusted whenever HUD publishes revised fair market rents.

Since construction costs will still exceed revenues, even with the adjustments, builders are offered a choice of five incentives to make the package financially feasible:

1. Accelerated Depreciation. Developers are encouraged to take advantage of this rapid five-year write-off for investors in low income projects which is allowed under Section 167(K) of the revenue code.
2. Priority Processing. Giving low income housing projects priority in the normal processing of documents.
3. Density Bonus. Allowing increased densities for low income projects on sites where lower density construction are contemplated.
4. Parking Waivers. Allowing non-compliance of standard parking requirements for developers of low income projects.



5. Furniture Rental. Permitting owners of low income housing units to rent furniture to tenants, thereby somewhat compensating for the rental deficit.

B. Los Angeles

The City of Los Angeles in April, 1974 adopted an ordinance which requires 6 percent of all new housing units to be for low income renters and/or owners and 9 percent of all new housing units to be for moderate income renters and/or owners. This ordinance is commonly referred to as the 15 percent ordinance. As part of this ordinance, all new housing developments are required to register with the Los Angeles Housing Authority. This inclusionary requirement is tied to the availability of federal housing subsidies. Consequently, if a developer cannot obtain a funding commitment, the developer does not have to meet the requirement. To date, the ordinance has resulted in an additional 300 rental units for low and moderate income individuals. For the most part, tenants have been holders of Section 8 certificates.

C. Santa Maria

The City of Santa Maria is currently operating its Housing Incentives Program, which is designed to provide below market rate prices on some homes in a soon to be completed development called Pepperwood. The Pepperwood project, when completed, will consist of 144 single family, detached residential units on 33 acres. The units constructed in the development will be 2, 3, and 4 bedroom units. The first phase of the project, 61 units, has targetted 14 of those units for low income families.

The city acquired the 33 acres by using \$330,000 of its CDBG funds. The builder, the Dickerson Company of Escondido, then submitted complete plans with evidence of availability of adequate financing for the construction of Phase I. At that time, the city conveyed the entire property to the developer who used it as security for a construction loan. Upon the receipt of the loan, the builder reconveyed to the city the portions of the property designated as Phases II and III by use of a conditional grant deed. The condition of the grant deed stated that the city, through escrow or otherwise, would convey the Phase II and Phase III portions of the property back to the developer upon evidence of adequate financing available for the construction of those phases. A second trust deed for Phase II or Phase III would then be delivered to the city by the developer. The city, in turn, agreed to release its interest in those second trust deeds as to each house and lot when it is to be sold in open public sale. In cases when the developer provides moderate income housing, the city would get back a second trust deed by the individual house and lot.

In an attempt to avoid speculation, a sliding scale of percentages on appreciation was established. The city in addition to simple interest at the rate of 5 percent per year, also receives 200 of the appreciation on homes sold within the first two years of ownership. The percentage rate of appreciation declines thereafter, until it is finally eliminated after the home has been held for ten years.

To date, the city has received over 1,000 inquiries and requests for applications for the Housing Incentives Program. After applicants are qualified for the housing units, a lottery will be held to determine the first recipients. The drawing and the actual location of the low income families in the project will be held in confidence.

#### D. Irvine

The City of Irvine has divided the area in its jurisdiction and sphere of influence into thirty planning areas, with residential areas referred to as villages. Irvine does not use conventional zoning in which a series of categories are defined and then applied to different locations in the city. Instead, each village has its own planned community regulations. This means that when the landowner requests a change from agricultural to urban uses, the city's zoning policy applies the change to the whole village. This results in the city's General Plan being concerned with only the total number of units in each village. This allows higher densities on some parcels within each village so long as the total number of housing units for a particular village is not exceeded. This makes it possible for the landowner/developer, in this case the Irvine Ranch Company, to provide higher density units and thereby provide lower per unit costs and lower priced housing for moderate income households.

Since 1974, the city council has included requirements for low and/or moderate income units in each village for which a zone change request has been granted. To date, five villages have inclusionary requirements. In all five villages, there exist a planned development ordinance which requires that ten percent of the eventual total number units in each village must be for moderate income families (note: Only one of the villages uses the HUD definition for moderate income; two villages use the \$8,000-\$15,000 range to define moderate income; while the remaining two use ranges of \$14,880-\$22,320 and \$13,440-\$20,160 respectively to define moderate income). In addition, one of the five villages (University Town Center) requires that ten percent of all sale or rental housing shall be affordable by low income families earning less than \$8,000 gross income per year. In all cases, the income ranges are subject to future city council adjustments based on changes in economic indices.

In order to determine at what price and/or rents affordable housing should be made available, Irvine uses a purchaser's/renter's yearly gross income and multiplies it by 2.5 for purchasers and .25 for renters. These factors have been used by federal and state housing agencies. The Irvine Planning Commission has discussed multiplying yearly gross income by 3.0 to determine sales price. The California Department of Housing and Community Development has indicated that this might be acceptable for moderate but not for low income requirements.

The inclusionary requirements have produced 631 moderate income family units in the required "for sale" price categories in three of the five villages and 100 low income units in the required low income rental category in one of the remaining two villages. Presently, ten sites have been identified in two of the villages for higher density housing. Nine of the sites will be developed at densities of 20-22 units per acre. Each of these ten sites will provide about eighty units or approximately 800 additional units for moderate income families. It should be stressed that in Irvine the developer must meet the inclusionary requirement regardless of the availability of housing subsidies. The city does not specify how the developer is to comply, only that the developer comply and build units. Of the units built, or under firm commitments, 160 have used Section 235 financing, 100 will use Section 8 New Construction, and 471 have been built through conventional means.

In conjunction with the inclusionary requirements, Irvine offers the developer

the following incentives:

1. Priority Processing. Used for developments which include low and/or moderate income housing.
2. Parking Requirement Modification. Irvine allows developments which provide low and/or moderate cost units to use apartment parking standards regardless of whether the units are for sale or for rental.
3. Park Modifications. Irvine considers lowering its park requirements from 4 to 2 acres per 1,000 people for family units within one-half mile of a public park and for units restricted to low and moderate income single persons regardless of location.
4. Off-Site Improvements. Irvine has allocated almost all of its CDBG funds to a Housing Cost Reduction Program which provides off-site improvements to the developer in exchange for a commitment that the savings to the developer will be passed through in the form of lower prices or rents to the consumer.

#### E. Davis

The City of Davis has an adopted General Plan which encompasses a growth management program called the Housing Development Priority Program Ordinance. The ordinance was adopted by the Davis city council in July, 1975, and is applicable to single family or duplex residential construction, including mobile homes, but excludes multiple units. The ordinance established a formal review and approval process. The components of the ordinance include the following three documents prepared by the Community Development Division: 1) the Phasing Map; 2) an Annual Needs Survey; and 3) the Amplification of Housing Development Priority Criteria. The Phasing Map sets the order in which the city plans to develop. In general terms, the Phasing Map is aiming at a 1990 city population of 50,000 and preserving those lands designated as Urban Reserve for development after 1990.

The Annual Needs Survey compares the existing housing stock in the various planning areas of the city with the need for new housing stock within each of these areas. An annual needs number is then defined for each area and becomes encompassed within an overall three-year needs number for the city. In the first year, the number of units to be built is defined and definite approval to build is granted. The second and third year needs numbers are tentative and tentative approvals are given. The survey itself is conducted during the summer with the allocation of approvals to build occurring in the fall for the following three years, and determined by the city council. The survey attempts to identify the number of low, moderate, and upper income single and multiple family units needed in each of the city's planning areas. In essence, the survey quantifies needs for each planning area and attempts to achieve a similar mix of housing units in the different planning areas of the city.

The Amplification of Housing Development Priority Criteria are the ten-point criteria used by the planning department in reviewing individual developments which are submitted after the allocation of approvals has been made. The property being proposed for development must already be in the right timing phase of the General Plan and have the proper zoning. The zoning must be in the form of a Planned Development, over which the city has complete design



control, and must allow for a mix of housing types. The General Plan does not specify the density of a proposed development. Developers are allowed the flexibility to individually determine the kind of residential proposal they think will meet the ten-point criteria. This has led to reductions in lot sizes so that the average lot size of many proposals is in the 4,000 - 4,500 square foot range.

Since an application must be in the form of a Planned Development having met the above conditions, refusal or approval of an application is based on the unsatisfactorily or satisfactorily meeting of the ten-point criteria. The ten-point criteria are listed as follows with the most important listed first.

1. internal growth needs
2. economic mix
3. low and moderate cost housing
4. environmental impact
5. availability of public services
6. past performances
7. compactness
8. design diversity
9. economic impact
10. provision for small builders

In reviewing each application, the planning department allows a maximum of 5 points for each criteria met in an application. Additionally, each of the criteria is weighted according to its order of listing in the list of criteria (i.e., internal growth needs is listed first and is worth 10 points; economic mix is listed second and is worth 9 points; etc.). Total points for the meeting of each criteria are therefore determined by the number of points assigned to each criteria by the planning department, to a maximum of 5 points, multiplied with the weighted value. The total points for each criteria are then added up to determine an application's total score. These ratings are then sent to the Housing Review Board which holds a public hearing, so as to give developers an opportunity to appeal their project's rating, before the Board makes its final recommendation to the city council. The city council, after a 15-day appeal period, makes final the allocations.

The Housing Development Priority Program Ordinance has been in effect for 5 years and has been applied to about 11 subdivisions. The original five-year goal of the ordinance was to provide one-third of all new units for moderate income households (i.e., under \$50,000). Presently, about 20 percent of all new units are for moderate income households.

## REGION

### A. Palo Alto

In its Housing Element, the City of Palo Alto has a requirement that in new

multiple housing developments of 10 or more units, not less than 10 percent of the units must be provided at below market rates for low and moderate income families. Palo Alto's below market rate program has been in existence for about five years and has provided approximately 40 units to 58 families (the difference in the numbers are due to resales). The below market rate program applies to both rental and homeowner units, but has yet to be applied to rental units.

In this program, buyers secure their own financing and must remain owner-occupants of the units (i.e., renting, leasing, etc. are not allowed under the deed restrictions of this program). Buyers of the below market rate units are screened by a non-profit housing corporation which contracts with the city. However, the actual criteria used for screening applicants of lower costs units has been established by the city council. The criteria gives first priority to people who have lived in the city for atleast two years. Second priority is given to employees of the city or school district; third priority to people who work in the city; and fourth priority to the general public. In the event of litigation against the non-profit housing corporation in its screening practices, the city is legally liable.

One of the most important features of Palo Alto's below market rate program is the preserving of the lower cost housing stock over time. Palo Alto requires that the developer place a deed restriction on each below market unit. This restriction gives the city a first right of refusal in the resale of a unit. This right of refusal gives the city and the Palo Alto Housing Corporation, which can act on behalf of the city, the option to purchase the unit based on a formula for calculating the sales price. The sales price is determined by the rate of inflation from time of purchase to date of sale based on the Consumer Price Index for the San Francisco Bay Area. To the sales price, the seller can also add the value of any improvement made to the property which equals atleast 1 percent of the original purchase price. In essence, at the time of resale the seller receives the original sales price; a limited amount of appreciation; and the value of any substantial improvement(s). These resale restrictions are in effect for 59 years from the date of purchase. After this time, the owner may dispose of the property as he or she wishes.

Palo Alto imposes the below market rate program on a development-by-development basis. Where a developer cannot satisfy this inclusionary requirement, due to the high construction cost of a particular development (e.g., on terrain that makes it impossible to provide units within a specified price range), the city allows developers to pay in-lieu fees rather than build units to fulfill the requirement. These in-lieu fees are then used in the city's other housing programs.

Another program which Palo Alto has operational is its landbanking program. The landbanking program has existed since 1969, well before the Housing and Community Development Act (HCDA) of 1974. Up until the enactment of HCDA, the city used general funding sources to operate its landbank program. The first landbank parcel, Lytton Gardens I, was a school site which was purchased by the city from the school district for \$430,000 and later sold to a non-profit group for \$330,000. This resulted in a Section 236 elderly rental housing project. The second landbank, Webster Wood, was the purchase of 3.5 acres for \$475,000. This land was sold to the Palo Alto Housing Corporation for \$40,000 and resulted in the city's only family rental housing project. In a recent landbank, the city purchased a parcel for \$239,000 and a developer determined that 50 Section 8 New Construction elderly rental units could be

built with no underwriting by the city, so the developer purchased the parcel from the city for \$239,000, the same price as the city had paid. In addition, the city recently completed an expansion of Lytton Garden I which resulted in the building of an additional 100 elderly Section 202 rental units.

#### B. Petaluma

In August, 1972, the city council of Petaluma by resolution adopted a Residential Development Control System to be used for the evaluation and allocation of an annual residential allotment (The system has been revised a couple of times since 1972, most recently in September, 1978). The system limits residential construction to no more than 5 percent of the annual population growth in the city. Each year, a specific amount of units are allotted equally to the western and eastern sectors of the city. This allotment is further broken down into the number of single and multiple units for each sector of the city. Both the total number and the sector allotments are based on the city's three planning documents (i.e., General Plan, Environmental Design Plan, and the Housing Element of the General Plan), but the city council establishes an annual allotment and estimates allotments for the following two years. The city council has authority to raise or lower the quota up to 10 percent for any sector. If an adjustment is made by the city council, subsequent yearly totals must be correspondingly adjusted either up or down. City council action occurs prior to the submittal of applications by developers. The system does not apply to elderly housing; physically handicapped facilities, and/or city approved low income projects; developments of 10 or less units; and areas within the urban area of the city less than five acres provided no more than 10 units are constructed per year. Reservations for future year allocations are allowed but limited to 50 percent of the projected allocations by type and location for the two years following the current year.

Allotment applications are submitted by developers to the planning department. Each application must contain the required information and the non-refundable processing fee. The planning department reviews each application and determines its compliance, or lack of, with the General Plan. If a proposed development does not comply with the General Plan, it is rejected. The planning department must give the applicant notice of rejection within 10 days after the proposed development was submitted. Within 10 days after the notice of rejection, the applicant may appeal the decision to the city council. The city council's decision on the appeal is final.

Proposed development which comply with the General Plan are evaluated by the Residential Development Evaluation Board. The Board is comprised of representatives from the city council, planning commission, business and professional interests, each of the the four local school districts, and members of the public at large. There are two sets of criteria used to evaluate each proposed development. The first set deals with the availability of public utilities and services, while the second set deals with quality of design and contribution to public welfare and amenity. If a proposed development is determined to be inadequate by the first criterion set, then the application is rejected. Under these circumstances, the applicant has the right of appeal. The appeal process is the same as that described above. The criteria in the first set are concerned with the ability and capacity of the 1) water system; 2) sanitary sewers; 3) drainage facilities; 4) fire department; 5) school(s); and 6) street linkages to adequately meet the needs of the proposed development without extensions or overloads and with acceptable standards.



The second criteria set is concerned with the 1) architectural design quality; 2) innovative site design; 3) character of site and architectural design quality; 4) arrangement of the site; 5) safety and security; 6) provision of public and/or private open space; 7) provision of foot or bicycle paths; 8) compactness of development so as to prevent urban sprawl; 9) provision of needed public facilities; and 10) provision of on- or off-site units to meet the city's policy goal of 8-12 percent low and moderate income units annually. The criteria in the second set carry with them numerical values. Criteria 5 and 7 are rated on a scale of 0-5; criteria 1 and 3 are rated on a scale of 0-10; criteria 6, 8, 9, and 10 are rated on a scale of 0-15; and criteria 2 and 4 are rated on a scale of 0-20. In addition, criteria 1, 3, and 5 are not used in evaluating custom home subdivisions and mobile home parks. A proposed development must receive at least 70 points before it can be recommended for allotment to the city council. Each applicant is informed by mail within 7 days after the Board has evaluated and rated the proposed developments. The city council, after receiving the evaluation from the Board, sets an appeals hearing at which time the council establishes a final priority list.

The initial Housing Element prepared in 1972 identified a low and moderate income housing needs range in the city of 8 to 12 percent. To date, about 10 percent of the units built since the Residential Development Control System was established have been low/moderate housing units.

### III. SUMMARY

The ten jurisdictions can be categorized into three different categories:

1. Those jurisdictions having home ownership programs for low and moderate income households;
2. Those jurisdictions having rental programs designed to provide more low and moderate income opportunities; and
3. Those jurisdictions which have growth management plans intended to provide additional low and moderate income housing opportunities.

#### A. Ownership Programs

The cities of Akron, Ohio; Dallas, Texas; Irvine, Santa Maria, and Palo Alto, California fall into the first category. One of the major problems of the programs in Akron, Dallas, and Irvine is that they do not impose any controls on the resale of units produced for low and moderate income households. This has resulted in units being sold, especially in the Irvine case, for substantial profits. By selling the unit for profit, the owner/seller has essentially eliminated a low and moderate income housing opportunity. This defeats and undermines the whole intent of the inclusionary program. Santa Maria's program, while making it more difficult for an owner to sell a unit, still leaves an opportunity for a seller to obtain a windfall profit, thereby eliminating a unit from the available low and moderate income housing stock. Palo Alto's program, with its deed restrictions, is the only program found which ambitiously attempts to keep a unit in the stock of low and moderate income housing.

In spite of shortcomings, each of these programs has met with praise from both the community and private sector. In Akron, the program operated by the housing authority is self-supporting and continues to provide needed capital for landbanking. The Dallas Area Redevelopment Program, by limiting the risk of a potential developer offers a substantial carrot which has resulted in an ongoing program that continues to provide increased lower cost housing opportunities. Dallas' rehabilitation and conversion of a rental apartment into owner-occupied units has been extremely successful. Future projects of this nature will be encouraged by both the city and the savings and loan associations. Irvine's inclusionary requirement has resulted in 631 moderate income housing units. Since Irvine is a growing community with one landowner of all remaining vacant land within the city, opportunities for its inclusionary requirement to be increasingly successful seem assured. In Santa Maria projects such as Pepperwood seem unlikely in the future because there is very little available residential land left within the city limits. Nevertheless, at the completion of Phase I of the project, 14 low income ownership units would have been provided. Phases II and III also promise to provide additional low income housing opportunities. As mentioned earlier, Palo Alto preserves its stock of approximately 40 moderate income housing units by deed restrictions on the resale of the units.

#### B. Rental Programs

Evanston, Illinois, has been successful in not only scattering public subsidized rental units, but by combining family with elderly projects has been able to lower the per unit cost thereby making it possible to build 26 family units in this affluent suburb of Chicago. Because of quality design and

citizen acceptance, future family projects in Evanston are likely.

Santa Cruz County has been successful in providing an eight unit elderly apartment building by providing a variety of money saving options to developers to stimulate new construction. By approving the growth management measure in June, 1978, voters also mandated a 15 percent low and moderate income housing factor as a percentage of all new construction. Because of the passage of the growth management measure with the inclusion of the 15 percent factor, future low and moderate income housing opportunities seem assured.

Los Angeles' 15 percent ordinance has not been successful in leveraging a substantial increase in low and moderate income housing opportunities. Despite the addition of 300 rental units, the city has tied its inclusionary requirement to the availability of federal housing subsidies. Consequently, if a developer cannot obtain a funding commitment, the developer does not have to comply with the ordinance. This represents a major loophole in the Los Angeles ordinance.

As a result of Irvine's inclusionary requirement, 100 low income rental units have been provided in the vicinity of the University of California campus. An additional 400 low income rental units are anticipated in this area in the future.

Palo Alto's landbanking program has resulted in three parcels being developed for elderly and family low income housing. In addition, an expansion of one of the elderly projects was recently completed in July, 1978. Palo Alto plans to continue its landbanking program as a means of providing low income rental units.

#### C. Growth Management Plans

Both Davis and Petaluma have similar growth management plans which incorporate the provision of low and moderate income housing as one of the criterion in the reviewing and prioritizing of proposed residential projects. It appears that low and moderate income units are being provided as a result of each city's residential allocation system. About 20 percent of all new units are presently for moderate income households in Davis, while about 10 percent of the units built since the inception of Petaluma's system have been for low and moderate income households. In September, 1978, Petaluma's rating system was revised. As a result of this revision, the importance of the low and moderate income housing provision was increased from 9 percent to 12 percent of the total score a proposed development could obtain.

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APPENDIX B

ISSUES SURROUNDING ADOPTION OF  
INCLUSIONARY LAND USE MEASURES  
AND PRELIMINARY STRATEGIES

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Participating Local Staff:

Susan Hastings-Hoge, City of Cupertino  
Russ McCubbin, Livermore Housing Authority  
Mike Joell, City of Napa

JULY 1979





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## I. INTRODUCTION

This is the second in a series of three working papers which deal with inclusionary land use measures. Inclusionary land use measures are mechanisms used by jurisdictions to expand the supply of affordable housing to low and moderate income households. In the first working paper, a detailed description of the inclusionary land use measures programs was presented. The intent of the first working paper was to not only describe the broad range of measures being presently used in jurisdictions throughout the nation, state, and region, but to begin some thought as to the possible measures that could be adopted and used in the cities of Cupertino, Livermore and Napa.

The intent of this working paper is two-fold: 1) to detail the issues surrounding the adoption of inclusionary land use measures in the cities of Cupertino, Livermore, and Napa; and 2) to offer preliminary strategies for the possible implementation of such measures in each of the three cities.

The technique used to determine the issues surrounding the adoption of inclusionary land use measures was a series of interviews in each of the three cities. Those interviewed in each of the three cities included: each city's mayor; in two cities, a planning commissioner; local advocates for lower cost housing; a developer who had done a lower cost housing development; a developer who is presently doing a housing development which includes lower cost units; and a developer who would like to do a housing development which would include lower cost units. Each of these individuals presented a different point of view on low and moderate income housing. By combining these points of view into a perspective, preliminary strategies were developed for consideration in each of the three cities.

This working paper is divided into the following four sections: I. Introduction; II. Highlights of Cities' Existing Housing Programs; III. Description of Each City's Issues and Preliminary Strategies; and IV. Summary. It should be noted, that Section III is divided into three distinct parts each dealing specifically with each of the three cities. The intent of structuring Section III in this manner was to make each of the three parts free-standing. Consequently, as the reader reads each of the three parts of Section III, the reader will become aware of some redundancy.

Some final notes, the terms "low" and "moderate income" used throughout this report are defined as below 80 percent of median income for "low" and between 80-120 percent of median income for "moderate". These definitions are consistent with those used by HUD, other federal agencies, and many local cities and counties. In addition, the phrases "low and moderate income housing" and "lower cost units" are synonymous and used interchangeably.



## II. HIGHLIGHTS OF CITIES' EXISTING HOUSING PROGRAMS

The following are the highlights of the three cities' existing housing programs. This brief description is not intended to be a full description, but is only intended to summarize the highlights of what is presently occurring in each city.

### CUPERTINO

The city has a density requirement which states that a development of ten or more units at a density of 6 housing units per acre must provide at least 10 percent of its units for families in the city whose income is at or below 120 percent of the median income of the county. In terms of rental units, the city has a Section 8 rental rehabilitation project which provides loans at no interest to owners/landlords if they rent to low and moderate income persons. In addition, the city has a rent stabilization program which makes loans at a 3 percent interest rate to owners/landlords who agree to stabilize the rents for a 15-year period. (note: rents can be adjusted upward because of cost-of-living and maintenance). The city has recently increased densities in its town center. Of the potential 400 units in this project, 20 percent will be for low and moderate income households. The city has established a Below Market Rate (BMR) program whereby the city instructs developers of the price range of housing the city would be interested in having built as part of a market housing development. These units would then be sold at below market rates to qualified purchasers. The resale of these units is controlled by deed restriction. To date, the BMR program has been used in conjunction with density bonuses and has resulted in two BMR units.

### LIVERMORE

The city has adopted - as part of their general plan - a policy which requires developers of new subdivisions to provide 10 percent of the units for low/moderate income households. As part of the city's HCDA block grant application, Livermore has included a proposal to set aside \$195,000 for landbanking. The city is also interested in identifying sites for low and moderate income housing with private developers.

### NAPA

The City of Napa has just recently adopted a growth management program. This program includes the following:

1. A rating system which gives "bonus points" to developers who include low and moderate income housing as part of their developments;
2. Exemptions from the rating system for developments providing 20 percent low and 50 percent moderate income housing as part of the development;
3. Exemptions from the rating system for senior low or moderate income housing using Section 8 or 202 funding.

Staff has also mapped potential sites for low and moderate multi-family units on sites with three or more acres.

### III. DESCRIPTION OF EACH CITY'S ISSUES AND PRELIMINARY STRATEGIES

#### CUPERTINO

##### PERSONS INTERVIEWED

##### REASONS FOR INTERVIEWING

Mayor Bob Meyers

Obtain city viewpoint

Sharon Blaine, Member, Cupertino  
Planning Commission

Obtain Planning Commission's view  
and advocate of city's Below Market  
Rate program

Bob Kretschman

Advocate for lower cost housing

J.D. Vanderlaan, President,  
Los Gatos-Saratoga Board of  
Realtors

Suspicious of governments' role  
in housing

Vicki Simpson of State Mutual  
Savings and Loan, Newport  
Beach office

Involved with city's first two  
Below Market Rate units.

Stan Howard of May Investment  
Company

Company owns land in town center  
area; trying to do a Section 8  
tandem project

Bob Hirsch of Goldrich and Kess,  
Los Angeles office

Attempted to work with May Investment  
Co. on a subsidized housing project

##### SUMMARY OF INTERVIEWS

There was consensus in the following three general areas:

1. Developers have the capability of providing lower cost housing units, but the city has to work with developers and vice versa if any are to be built.
2. People who work in Cupertino but who cannot afford to live here should be given first priority as lower cost units become available.
3. Much of Cupertino's remaining vacant land is environmentally sensitive because it is in the hillsides. Residential development should be restricted in these areas.

Of all the items discussed during the course of the interviews, there were three key items that were most often discussed. These three key items were:

1. Community fear of the potential occupants of low and moderate income housing.
2. The city's commitment to providing additional low and moderate income housing.
3. Incentives to developers:
  - a. Below Market Rate program with density bonuses
  - b. Priority processing
  - c. Landbanking
  - d. In-lieu fees

### Community Fear

Many of the interviewees felt that community fear of the potential occupants of low and moderate income housing was not based on racism and/or discrimination, but instead they felt that it was based more on people's perception of what low and moderate income housing looks like. It was felt that people were most afraid of declining property values as the result of low and moderate income housing construction. Nevertheless, two individuals stated that implicit racism and discrimination exist in Cupertino, especially in regard to low income rental units.

Some felt that community fear could be overcome by the scattering of lower cost units over the entire city. One individual stated that if the city were to concentrate this type of housing in any particular area, then racism may become more overt. A few interviewees felt that giving priority in the sale of lower cost housing to people who work in Cupertino would aid in the community acceptance of such housing.

### City's Commitment

Even with the establishment of the city's Below Market Rate program, about half of the individuals interviewed did not feel the city was committed to providing lower cost housing opportunities. Both developers and non-developers alike thought the city could do more.

Interviewees suggested that the city offer more incentives to developers but felt that the city should make certain that any incentive given be properly used by the developer.

### Incentives to Developers

The most often mentioned and discussed incentives were the Below Market Rate program with: a) density bonuses; b) priority processing; c) landbanking; and d) in-lieu fees.

a. Below Market Rate (BMR) Program with Density Bonuses.

There are varying degrees of support, but there is virtually complete support for the Below Market Rate (BMR) program. A few individuals felt that it was not going to result in additional lower cost units being built, but that it was worth a try. One developer felt that the BMR program involved too much government control, especially in regards to determining purchaser's eligibility and resale controls. Two non-developers felt that the resale controls were necessary if the units were to be preserved as affordable lower cost units.

Developers felt that the density bonus portion of the BMR program was the most appealing component of the entire program. They stressed the need for higher allowable densities on the remaining vacant residential land in the city because of the high land costs. Developers felt that the city's use of density bonuses would result in additional lower cost units being built. They stated that the savings could be passed on directly to the purchaser of the unit. One developer stated that developers are making so much money today that all it would take to provide lower cost units with a density bonus would be for the developer to forego some profit on those units. Non-developers favored giving density bonuses as an incentive, because they felt it does not cost the city anything. Non-developers also supported the use of density bonuses with the BMR program.

b. Priority Processing .

Priority processing is unanimously supported by developers as an effective means to eliminate costly time delays. They felt that if priority processing could be used in conjunction with the BMR program and density bonuses, that risk and uncertainty along with per-unit construction costs would be sufficiently reduced so as to enable them to build lower cost housing.

Non-developers felt that priority processing should be considered by the city as an incentive. They favored the concept because it would involve no out-of-pocket subsidy to the developer. They agreed that if priority processing were established in conjunction with the BMR program and density bonuses, then additional lower cost units would be extremely feasible.

c. Landbanking

Based on those individuals interviewed, there is virtually no support for landbanking in Cupertino. Many individuals felt that because land is so expensive in Cupertino, that not much land could be purchased and the land that was purchased would be very expensive. No one really felt that to landbank would be a wise and efficient use of either Community Development Block Grant money or general revenue funds. Developers largely felt that landbanking would not result in any significant land acquisition. One developer called landbanking a "tidbit" in regards to the whole issue of lower cost housing.



d. In-Lieu Fees.

Another often mentioned concept was the charging of in-lieu fees when a developer could not satisfy the BMR program's requirement for lower cost units. Developers stated that if given the choice, they would rather pay in-lieu fees. Among non-developers, there was no support for this concept because people felt that the city would end up with no lower cost units being built.

### EVALUATION OF INTERVIEWS

Developers in general are not all that anxious to work with the BMR program unless the city provides added incentives. The two incentives that they all favored were density bonuses and priority processing. They stated that if the city would provide these incentives, then developers would be willing to work with the BMR program.

Developers believe that density bonuses combined with priority processing offer the most promise as incentives for developers to build low and moderate income housing. Landbanking they felt would not do much because of the high cost of land. In-lieu fees are preferred over the BMR requirement and would not result in the construction of additional lower cost housing.

Virtual agreement exists for the need for an education process which better informs people of what exactly is meant by low and moderate income housing. In addition, agreement exists as to the need to scatter lower cost housing as much as possible so as to obtain community acceptance.

### PRELIMINARY STRATEGY

Based on the interviews and additional research, the city should consider the following:

1. Offering density bonuses to developers of low and moderate income housing.
2. Offering priority processing to developments that contain low and/or moderate income housing opportunities.

The above recommendations would work best in conjunction with the BMR program. Therefore, the above recommendations are offered as a preliminary strategy to strengthen the intent of the BMR program which is to obtain additional lower cost housing.

### Density Bonuses

Density bonuses could be granted to developers as incentives in order to meet the BMR requirement. As mentioned earlier, density bonuses do not necessarily

mean that purchasers of market units in a development are subsidizing purchasers of lower cost units in the same development. Instead, if in exchange for a density bonus the developer agreed to forego some profit, then the savings could be passed on directly to the purchaser of the lower cost unit. This would eliminate the subsidizing of the lower cost units by purchasers of market units.

Density bonuses are a form of subsidy to the developer; however, they do not require a city to take any upfront monetary risk. In the course of the interviews, many individuals mentioned other incentives calling for direct monetary subsidies. The problem with these direct monetary subsidies is that the city would either have to use Community Development Block Grant money or general revenue funds. In either case, using direct monetary subsidies would result in less money available for other needed uses. Therefore, the city should consider use of this incentive in conjunction with the BMR program and priority processing because it requires no out-of-pocket costs.

### Priority Processing

In conjunction with the BMR program and density bonuses, the city should consider using priority processing as an incentive. Developers support priority processing unanimously because it eliminates costly time delays and uncertainty. They felt that by eliminating some delays and risk, per unit construction costs could be reduced. Non-developers favored it because it would not cost the city anything in terms of upfront money. Given the general support for this incentive and its consistency with the intent of the BMR program, the city should consider establishing this as a developer incentive.

## LIVERMORE

### PERSONS INTERVIEWED

### REASON FOR INTERVIEWING

Mayor Marshall Kamena	Obtain City Viewpoint
City Attorney Gary Reiners	Obtain City Viewpoint
Jim Price, Manager of Government Housing, Shappell Industried, Inc.	Developer who would like to build low and moderate income housing
Darryl Graves, Lexington Homes, Inc.	Developer who is in process of building Sec. 8 tandem project
Karen Nattross, Chairwoman, Livermore Housing Advisory Committee	Advocate for low and moderate income housing
Pat Vane and Jack Tinney, affiliated with Columbus Realty, Livermore, and members, Housing Advisory Committee	Developers who would like to do a moderate income housing development
Ed Vince, President of Interfaith Housing, Inc.	Was involved in development of local elderly housing
Candace Simoneon, Chairwoman, Livermore Planning Commission	Obtain Planning Commission's view and explain growth management in Livermore
Bob Hirsch of Goldrich and Kess, Los Angeles office	Has done subsidized housing in Livermore (Section 236)

### SUMMARY OF INTERVIEWS

There was consensus in the following three general areas:

1. Incentives are needed for developers if additional low and moderate income housing opportunities are to be built in Livermore.
2. There is an existing range of housing needs in the city.
3. The housing goals of the city need to be calrified so that the general public can better understand what it is the city is attempting to accomplish and so that developers can better understand the needs of the community and address these needs in their future proposed developments.

Of all the items discussed during the course of the interviews, there were three key items that were most often discussed. These three key items were:

1. Community fear of the potential occupants of low and moderate income housing.

2. The city's commitment to providing additional low and moderate income housing opportunities.
3. Incentives to developers:
  - a. Development fees
  - b. Density bonuses
  - c. Priority processing and possible revisions to Residential Development Plan (RDP)

### Community Fear

Community fear of the potential occupants of low and moderate income housing was felt to be explicitly expressed by the defeat of the Article 34b Referendum. Many of those interviewed stated that the primary reasons for this fear are three-fold: (a) racism and discrimination exist both explicitly and implicitly in Livermore as it does throughout American society; (b) peoples' perception of what low and moderate income housing looks like is tainted by images of old run-down housing projects that still exist today in many parts of the Bay Area; and (c) a general lack of knowledge as to immediate needs of the present residents of Livermore for low and moderate cost housing.

Many interviewees felt that community fear could be overcome if residents of Livermore were made to understand that the building of low and moderate income housing is aimed at addressing an existing local need. One developer stated that this lack of understanding of how a particular development would meet a local need could kill a development.

### City's Commitment

Most of the individuals interviewed believed that the city was not fully committed to providing additional low and moderate income housing opportunities. Although a few of those interviewed felt that the city council was hampered in their efforts by the defeat of the Article 34b Referendum in March. Nevertheless, virtually all of those interviewed agreed that the city could and should do more.

Interviewees offered suggestions as to how the city could show more of a commitment by pointing to the need for incentives to entice and enable developers to build lower cost housing. People felt that the city should incorporate some incentives into the city's ongoing housing program. Many felt that this was an important first step in obtaining additional low and moderate income housing. Another suggestion was to more clearly state the city's housing policy direction and goals. Three developers stated that the city was more interested in attracting commercial and industrial development than developing additional low and moderate income housing opportunities.

### Incentives to Developers

The most often mentioned and discussed incentives were: a) development fees; b) density bonuses; c) priority processing and possible revisions to the Residential Development Plan (RDP); and d) landbanking.



a. Development Fees.

Three developers stated that the development fees in Livermore were very restraining and key cost factors in their individual projects. All three felt that if the city could reduce some of the development fees, that this could serve as a much needed incentive. Two individuals felt the reduction of some fees might be possible and agreed that such a reduction would serve as an incentive. However, both were quick to stress that the revenues used to provide these reductions would have to originate from Community Block Grant funds, because they felt that the money could not be taken from the city's general fund due to other citywide priorities. Another individual felt very strongly that wherever possible new residential development, be it low and/or moderate income or not, pay its own way.

b. Density Bonuses.

Every developer and all but one individual mentioned density bonuses, density transfers, or increasing densities as a potential incentive. Developers believe that density bonuses are the best incentives that a city can use in order to obtain additional lower cost housing units. One developer stated that density bonuses could be given within the existing confines of the city's growth management program. Another developer stated that, if a density bonus were to be given this could result in the developer effectively lowering the costs of providing the additional units. These lowered cost units could then be provided to moderate income households as ownership units. One non-developer questioned the use of density bonuses as an incentive based on the belief that others in the development actually subsidize the buyers of the lower cost units. Two developers disagreed, stating that the city could require or grant a density bonus after the city knew the price of the market units. Developers agreed that savings as a result of a density bonus could be passed on directly to the buyer of the lower cost unit without indirect subsidies from buyers of market units.

c. Priority Processing and Possible Revisions to the Residential Development Plan (RDP).

The most often heard complaint from developers was that the city causes many time delays. These time delays cost the developer money and increase the amount of risk. One developer stated that labor and materials are increasing at the rate of one percent a month and that this added cost is passed on directly to the consumer. Another developer stated that his project tried to reflect anticipated delays, but that, in fact, he has encountered more delays than anticipated. Many developers felt that if the city could expedite the process, that this could reduce the price of housing in general. In regard to low and moderate income housing, developers felt that it is of paramount importance that the city give priority to those developments which will add to the city's stock of low and moderate income housing.

Four non-developers stated that they were willing to consider possible revisions to the RDP in an effort to give priority processing to those developments which provide additional low and moderate income housing. One of these individuals questioned whether the RDP in its present form was doing anything to encourage the development of low and moderate income housing. These four individuals offered three possible revisions to the RDP that could encourage the development of lower cost housing.

The first possible revision to the RDP centered around the three-month application period. It was suggested that during the first month only developments which contained low and/or moderate income units be allowed to apply. In this way, the city would know in advance how many lower cost units it was likely to obtain before it accepted applications for market units. This proposal would work in conjunction with an annual percentage allotment for lower cost units subtracted from the two percent annual growth rate. The unused portion of this allotment in any one year would then be added to the following year's allotment and subtracted from that year's two percent annual growth rate. It was felt that this revision was worth considering because it would not violate the two percent growth limitation and would result in more lower cost housing being built.

The second suggested revision is slightly different from the first, but along the same lines. This revision centered more around the provision of low income rental units. It was suggested that in order for low income rental units to be built in Livermore, that such a development had to be of a certain scale to be economically feasible. This revision recommends that a three-year goal for low income rental units be established and that these units be held in reserve for use anytime during the three-year period. This means that all or part of the reserve could be used during any one of the three years. It was felt that this would provide a developer an opportunity to build low income rental units at a scale that was economically possible. This suggested revision would also be in keeping with the RDP.

The third suggested revision would exempt from the RDP those developments that provided a specified percentage of its housing for either low or moderate or some percentage mix of both throughout the entire development. It was felt that such a revision could be a real incentive and offer interested developers the opportunity to present such development proposals when they could put such a package together as opposed to the present application period which does not allow for this kind of flexibility.

d. Landbanking.

Only two developers thought landbanking was a needed incentive to developers. One of these developers stated that if the city would acquire and hold the land for a developer that this would eliminate some of the developer's risk and could eliminate some time delays. However, this same developer also stated that what was even more important was that the land be properly zoned for the economic development of lower cost units.

Non-developer individuals felt that the city should continue to landbank because the land once landbanked could be sold at a reduced rate to a developer for the development of lower cost units. They felt that this was an incentive developers would want and that the city should start to landbank.

### EVALUATION OF INTERVIEWS

In general, the persons interviewed were very willing to talk candidly about low and moderate income housing in Livermore. There is unquestionably real interest on the part of developers and non-developers alike to provide additional lower cost housing opportunities. As stated earlier, there is a general consensus that incentives are needed for developers. In exchange for these incentives, developers said that they were willing to work closely with the city and concerned citizens to discuss ways to make housing more affordable to low and moderate income people. Two developers stated that developers are making more money than ever before, but that they were willing to reduce their profit margin in exchange for some incentives. Non-developers, while quick to recognize the expertise that developers possess in building houses, felt that this expertise should be harnessed by the public sector and used to build lower cost housing. They are not opposed to developers' making a profit, but they believe that if they are to give developers incentives, then developers should give something in return.

Developers believe that density bonuses or density transfers combined with priority processing offer the most promise as incentives for the construction of low and moderate income housing. Landbanking they felt was useful but did not really offer the same kind of incentive as density bonuses and priority processing unless the land was properly zoned for lower cost units.

Virtual agreement exists for the need for an education process which better informs people of the city's housing needs and what exactly is meant by low and moderate income housing. Additionally, the city needs to better define its position on low and moderate income housing.

### PRELIMINARY STRATEGY

Based on the interviews and additional research, the city should consider the following:

1. Offering density bonuses to developers of low and moderate income housing. In the long run and on a much larger scale, the city might wish to consider density transfers within larger areas of the city.
2. Revising the Residential Development Plan (RDP) to give priority to developments that contain low and/or moderate income housing opportunities.
3. Purchasing and holding land for future low and moderate income housing, but obtaining appropriate zoning for this land.



The above recommendations are offered both incrementally and in their entirety as a preliminary strategy. The order in which the above three recommendations appear are the order in which is recommended incrementally with the intent that all three together constitute a preliminary strategy.

### Density Bonuses

Density bonuses could be granted to developers who wish to include lower cost units as part of their developments. As mentioned earlier, density bonuses do not necessarily mean the purchasers of market units in a development are subsidizing purchasers of lower cost units in the same development. Instead, if in exchange for a density bonus the developer agreed to forego some profit, then the saving could be passed on directly to the purchaser of the low cost unit. There has been some speculation expressed that by allowing higher densities on some parcels the value of the land is increased. This is true, but if a city allows density increases, it must require that the added units be affordable to low and/or moderate income households.

Density bonuses are a form of subsidy; however, they do not require a city to take any upfront monetary risk. In the course of the interviews, many individuals mentioned other incentives calling for direct monetary subsidies. The problem with these direct monetary subsidies is that the city would either have to use Community Development Block Grant money or general revenue funds. In either case, using direct monetary subsidies would result in less money available for other needed uses. This is the primary reason density bonuses may be attractive to Livermore, because they do not involve any upfront direct monetary costs.

In the long run and on a larger scale, density transfers might be considered. In a density transfer, the city does not use conventional zoning but uses large area zoning. This allows for flexibility within a given area so that higher densities are allowed on some parcels so long as the total number of units for a given area is not surpassed. Density transfers can be used with requirements that a percentage of the available housing be for low and moderate income households. Density transfers offer flexibility to developers to provide lower cost housing through increased densities, while preserving the city's desire for growth management.

### Revising Residential Development Plan (RDP)

Given that the city would like to control the amount of annual residential growth, any revisions to the city's RDP must be made within the confines of the two percent annual growth limitation. Therefore, the city should consider revising the RDP to give priority to developments that contain low and/or moderate income housing opportunities. This could be done by accepting only these kinds of applications during the first month of the application period. A specified percentage goal for low and/or moderate income housing should be established and the appropriate number of units allocated each year. The unused portion of this allotment would be added to the following year's allotment and subtracted from that year's two percent growth rate. The city should consider both ownership and rental units in establishing a specified percentage for the yearly construction of low and moderate income housing. In addition, an exemption for outstanding developments that include a high percentage of low or moderate or a mix of



both throughout the entire development should be allowed. Although admittedly this could put the city pass the two percent growth limit in any one year, these types of developments should be encouraged and should be allowed to proceed when they are financially feasible. What may be in excess of the two percent growth limit could be subtracted from subsequent years' growth.

#### Landbanking

The purchasing and holding of land for the future development of low and moderate income housing should be pursued only if appropriate zoning that will allow the development of lower cost units can be obtained. This could be very difficult to do unless a prior commitment could be obtained from the city council that city owned land to be used for low and/or moderate income housing would receive the appropriate zoning when possible. Landbanking is an idea which has the support of local citizens interested in lower cost housing. However, landbanking ties up needed funds and results in a direct monetary subsidy to a developer. Therefore, it should only be pursued if there is either a strong commitment from the city council to have lower cost units built and they are willing to commit the proper zoning to make it financially feasible, or if the city intends to use the landbank in conjunction with subsidized housing.

## NAPA

### PERSONS INTERVIEWED

Mayor Ralph Bolin  
Dennis Patterson, Pueblo Tenants  
Association  
Lou Flores, Attorney  
George Burch  
Dave Bullwinkle, Bullwinkle  
Realty  
Marshall Kent  
Bob Hirsch of Goldrich and  
Kess, Los Angeles

### REASON FOR INTERVIEWING

Obtain city viewpoint  
Advocate for low and moderate  
income housing  
Landowner and advocate for Low  
and moderate income housing  
Developer, landowner, and suspicious  
of government involvement in housing  
Realtor-developer who would like  
to build lower cost housing; has  
previously built lower cost units  
Has done subsidized housing in Napa  
Was interested in doing subsidized  
housing in Napa

### SUMMARY OF INTERVIEWS

There was consensus in the following four areas:

1. The community does not want to continue growth management, because it increases the cost of housing.
2. Incentives are needed for developers if additional low and moderate income housing opportunities are to be built in Napa.
3. There is an existing need for low and moderate income housing in Napa.
4. There is a need for better understanding between the city and developers as to what the city's housing goals are and what the city would like developers to do.

Of all the items discussed during the course of the interviews, there were four key items that were most often discussed. These four key items were:

1. Community fear of the potential occupants of low and moderate income housing.
2. The city's commitment to providing additional low and moderate income housing opportunities.

3. Local builder priority in the construction of housing, especially low and moderate income housing.
4. Incentives to developers:
  - a. Development fees
  - b. Density bonuses
  - c. Priority processing
  - d. Landbanking

### Community Fear

Virtually everyone interviewed made some reference to the fact that Napa was still a city with a conservative small town attitude. They felt that this community fear takes many different forms but that the primary reasons for it are: (a) racism and discrimination exist both explicitly and implicitly in Napa as it does throughout American society; (b) people's perception of what low and moderate income housing looks like is tainted by images of old run-down housing projects that still exist today in many parts of the Bay Area; and (c) a general lack of knowledge as to the immediate needs of the present residents of Napa for low and moderate cost housing.

Many interviewees felt that the community feared "outsiders" would come to live in Napa if low and/or moderate income housing were built. It was stressed that community fear could be overcome if residents were made to understand that the building of low and moderate income housing was aimed at addressing an existing local need. One individual stated that if the city put an Article 34b Referendum on the ballot that it would have an extremely difficult time being approved.

### City's Commitment

All but one interviewee stated that the city is not committed to building low and/or moderate income housing. Virtually everyone blamed the city's growth management program for this, stating that the program by limiting growth has caused the price of land to skyrocket, thereby making it more costly to build housing and nearly impossible to build low and moderate income housing.

Two individuals suggested that the city create a non-profit housing corporation that would aggressively pursue building low and moderate income housing. These same two individuals felt that the only reason the city was now somewhat interested in building low and moderate income housing was because the city was getting pressure from HUD. They also accused the city of being more interested in commercial and industrial development than it is in providing lower cost housing. Interviewees stressed the need for incentives to developers to build lower cost housing. However, non-developers equally stressed the need for the city to make sure that developers not misuse incentives for their own gain. One developer stated that if the city was really interested in providing lower cost housing, then it would adopt flat zoning instead of its planned unit development requirements which add a lot to the costs. In addition, two developers suggested

that for small developments that only the Uniform Building Code be used and that small developments not be required to go before the planning commission.

### Priority for Local Builders

All of the developers and one non-developer suggested that given the size of the remaining parcels of land within the city that small builders be given a preference over out-of-town builders in the construction of housing. One out-of-town developer felt that given the city's desire to build scattered site low and/or moderate income housing, that local builders were better able to do this. Local developers stated that they have a greater interest in the community because they are part of it. They felt that if the city would cooperate with them by giving them incentives and eliminating some barriers, then they could build low and moderate income housing.

### Incentives to Developers

The most often mentioned and discussed incentives were: a) development fees; b) density bonuses; c) priority processing; and d) landbanking.

#### a. Development Fees.

Three developers felt that the development fees in Napa are high but not restrictive in terms of building low and moderate income housing. All three developers felt that it would be nice for the city to reduce its fees but recognized that this was not likely to occur. All developers agreed a reduction of fees would definitely serve as an incentive. Non-developers did not like the idea of giving direct monetary subsidies to developers for two reasons: (a) the city could not afford to do it; and (b) developers do not really need it.

#### b. Density Bonus.

Virtually everyone mentioned density bonuses, density transfers, or increasing densities as a possible incentive. Developers felt that density bonuses are the best incentives that a city can use in order to obtain additional low cost housing units. All developers agreed that the physical cost to construct the house and the labor and materials needed in construction were not as important cost considerations as the cost of the land. They unanimously agreed that if some form of density bonus were used, then they could effectively lower the cost of the added units. These lowered cost units could then be provided to moderate income households as ownership units. Developers agreed that savings could be directly passed on to the buyer of the lower cost unit.

Non-developers did not generally favor density bonuses because they felt developers would abuse it to their financial advantage. They agreed that



if the city were to grant density bonuses, then the city would have to make sure that developers did not merely pass on the reduction in price to buyers of market units or reduce a development's amenities as a result of providing lower cost units.

c. Priority Processing.

Developers felt that giving priority processing to developments with low and/or moderate income units would reduce the cost of developing these units. This reduced cost could then be passed on as a savings to the potential occupants of these units. They stated that the present processing system causes delays which increase costs. These costs are then passed on to the consumer. One developer stated that if the city would eliminate some of their "hoops", then builders could provide lower cost units. Developers in general felt that establishing a priority processing system for developments of lower cost units would (a) indicate that the city is serious about providing lower cost housing; (b) provide developers with an incentive to build lower cost housing because it would eliminate at least some costly delays; and (c) by eliminating delays and uncertainty, risk is also reduced.

Non-developers felt that priority processing should be considered by the city as an incentive. They favored the concept because it would involve no out-of-pocket subsidy to the developer. They agreed that establishing priority processing for developments of low and/or moderate income housing would help to clarify the city's position on lower cost units and indicate that the city is serious about addressing some of the present needs of the community.

d. Landbanking.

The interviewees generally were lukewarm regarding landbanking. Only two individuals made strong statements about landbanking: one for it and one against it. The rest did not give it a high priority in terms of incentives. One non-developer did not particularly favor the idea because he felt it tied up city money that might be more efficiently used elsewhere. One developer stated that he would only favor the idea if it meant that the land would be properly zoned for lower cost units in advance of his involvement.

## EVALUATION OF INTERVIEWS

In general, the individuals interviewed were very willing to talk candidly about low and moderate income housing in Napa. Non-developers are very interested in having additional low and moderate income housing opportunities provided in Napa. Developer interest, while it is present, is not nearly as strong. During the course of the interviews with developers, developers would begin to talk about using incentives in conjunction with market units. Two developers implied that while they would use incentives to reduce the price of a housing unit, that they themselves might not be willing to give up any profit. However,

when asked directly about this, they stated that they were willing to work closely with the city if that meant fewer delays and other incentives as mentioned above. In this regard, one developer stated that the city council and planning commission is overly concerned about developers making money. Non-developers in general seemed willing to work with developers on the grounds that some give-and-take take place.

Developers believe that density bonuses combined with priority processing offer the most promise as incentives for the construction of low and moderate income housing. Landbanking they felt was useful but did not really offer the same kind of incentive as density bonuses and priority processing unless the land was properly zoned for lower cost units.

Virtual agreement exists for the need for an education process which better informs people of the city's housing needs; what exactly is meant by low and moderate income housing; and how the provision of low and moderate income housing will help the city address the existing needs of the community.

#### PRELIMINARY STRATEGY

Based on the interviews and additional research, the city should consider the following:

1. Offering density bonuses to developers of low and moderate income housing.
2. Offering priority processing to developments that contain low and/or moderate income housing opportunities.
3. Establish a specific and realistically attainable annual goal for low and moderate income housing.
4. Preserve the following elements contained in the city's growth management program:
  - a. Bonus points to developers who include low and moderate income housing as part of their developments.
  - b. Exemptions to the rating system for developments providing 20% low and 50% moderate income housing as of the development.
  - c. Exemptions from the rating system for senior low or moderate income housing using Section 8 or 202 funding.

The above recommendations might work best in unison with the recently adopted growth management program. Therefore, the above three recommendations are in their entirety offered as a preliminary strategy.

## Density Bonuses

Density bonuses could be granted to developers who wish to include lower cost units as part of their developments. As mentioned earlier, density bonuses do not necessarily mean that purchasers of market units in a development are subsidizing purchasers of lower cost units in the same development. Instead, if in exchange for a density bonus the developer agreed to forego some profit, then the savings could be passed on directly to the purchaser of the lower cost unit. There has been some speculation expressed that by allowing higher densities on some parcels you are increasing the profit or return on investment to the developer. This is true, but if a city allows density increases, it must require that the added units be made affordable to low and/or moderate income households and that the developer forego some profit by directly passing this on to the purchaser.

Density bonuses are a form of subsidy; however, they do not require a city to take any upfront monetary risk. In the course of the interviews, many individuals mentioned other incentives calling for direct monetary subsidies. The problem with these direct monetary subsidies is that the city would either have to use Community Development Block Grant money or general revenue funds. In either case, using direct monetary subsidies would result in less money available for other needed uses. Therefore, the city should consider use of this incentive because it will aid in obtaining additional lower cost units without any out-of-pocket expense on the part of the city.

## Priority Processing

Within the confines of Napa's growth management program, the city should give priority to those developments which contain low and/or moderate income housing opportunities. This could be accomplished by accepting only these types of applications during the first month of the application period.

## Annual Goal for Low and Moderate Income Housing

A specified realistic percentage goal for low and /or moderate income housing should be established and the appropriate number of units allocated each year. The unused portion of this allotment would be added to the following year's allotment and subtracted from that year's total allowable growth. The city should consider both ownership and rental units in establishing a specified percentage for the yearly construction of low and moderate income housing.

By setting specific annual goals for the construction of low and/or moderate income housing, the city will not only refine its position but by making it a part of the growth management program, the city provides developers with an incentive to submit proposals that include low and moderate income housing.

### Preservation of Growth Management's Bonus Points and Exemptions

The city's growth management program has only recently been adopted. All but one individual interviewed thought that the program was not an incentive to obtaining additional lower cost units. It is peculiar that so many individuals were willing to indict the program so soon after it was adopted. Nevertheless, the bonus points and two exemptions previously mentioned should be preserved until adequate time has elapsed to determine whether or not they are effective as incentives.



#### IV. SUMMARY

The two recommendations which are shared by each of the three cities are density bonus and priority processing. Developers view both as effective tools to reducing construction costs and favor both of these over more direct subsidies such as a reduction in development fees. Additionally, developers stressed the need to eliminate uncertainty and reduce risks. They felt that this could best be achieved, again, by the use of priority processing. From the city's viewpoint, both density bonuses and priority processing entail no out-of-pocket subsidy from the city to the developer. However, cities should work closely with developers when granting density bonuses to assure that purchasers of market price units are not subsidizing purchases of lower cost units. One way that this kind of purchaser subsidy can be avoided is by obtaining a guarantee from the developer that the reduced price of the lower cost unit is a result of decreased developer profit.

City commitment, the need for mutual cooperation, and community fear were all items commonly mentioned in each city. Cities need to make it better understood that they are interested in obtaining additional low and moderate income housing. It was generally felt that the best way to clarify a city's position was to offer incentives to developers that provide lower cost units as a part of a development. It should be established in advance that before any incentives are established, that there be a mutual give-and-take on the part of both the city and developer.

The most commonly stated reasons for community fear were: (a) racism and discrimination; (b) people's perception of what exactly is low and moderate income housing; and (c) a general lack of knowledge as to the present needs of the community. Addressing community fear should become part of each city's ongoing housing program. It should be recognized that this is an educational process and that it will take time.

Landbanking as a concept was not generally supported. Developers felt that landbanking would not amount to much because of the limited amount of money cities have available to accomplish it. Developers thought it more important that land be properly zoned for the economic development of lower cost units. A few developers stated that cities should use landbanked land for subsidized housing. Only a few non-developers came out strongly supporting landbanking. Their support was based on the belief that it is an incentive developers want. Based on the interviews, it is not recommended that cities pursue landbanking unless there is a strong commitment on the part of the city councils to have such land properly zoned and/or if the city intends to use such land for subsidized units.

Everyone agreed that providing ownership market low income units is near to impossible. There was agreement as to the lack of incentives for providing rental apartment units for people of any income level, let alone low income individuals. The reasons for this are manifold, but are largely due to existing

tax laws, the high rates of interest, and the amount of disposable income available. As a consequence, apartments are a less than break-even proposition. If additional low income rental units are to be provided, then the availability of federal and state subsidies must be increased in conjunction with informing landlords that such subsidies exist and are available for use. In addition, cities should investigate the use of non-traditional housing to meet the needs of low-income renters. Mobile homes are an example of non-traditional housing which could be used to meet the housing needs of low income households.

Finally, it should be stressed that once lower cost ownership units are built, cities should consider means by which to preserve these units. The most effective mechanism used to protect the stock of lower cost units is a deed restriction (i.e., right of first refusal) which deals with the resale of the unit. Such a program could be administered by the city or a local housing authority at a minimal cost. The long term benefits of preserving lower cost units are great and it is recommended that cities consider such resale controls.

## LIST OF INTERVIEWS

### CUPERTINO

Blaine, Sharon - Member, Cupertino Planning Commission; Personal Interview (7/12/79).  
Hirsch, Bob - Goldrich and Kess Inc., Los Angeles; Telephone Interview (7/16/79).  
Howard, Stan - May Investment Co., Cupertino; Telephone Interview (7/16/79).  
Kretschman, Bob - Concerned citizen; Personal Interview (5/22/79).  
Meyers, Bob - Mayor, City of Cupertino; Personal Interview (5/13/79).  
Simpson, Vicki - State Mutual Savings and Loan, Newport Beach, CA; Telephone Interview (7/13/79).  
Vanderlaan, J.D. - President, Los Gatos - Saratoga Board of Realtors, San Jose; Personal Interview (5/22/79).

### LIVERMORE

Graves, Darryl - Lexington Homes Inc., San Francisco; Telephone Interview (7/13/79).  
Hirsch, Bob - Goldrich and Kess Inc., Los Angeles; Telephone Interview (7/16/79).  
Kamena, Marshall - Mayor, City of Livermore; Personal Interview (7/11/79).  
Nattross, Karen - Chairwoman, Livermore Housing Advisory Committee; Personal Interview (6/29/79).  
Price, Jim - Manager of Government Housing, Shappel Industries Inc., Milpitas; Personal Interview (7/5/79).  
Reiners, Gary - City Attorney, City of Livermore; Personal Interview (7/11/79).  
Simoneon, Candace - Chairwoman, Livermore Planning Commission; Personal Interview (6/20/79).  
Tinney, Jack - Affiliated with Columbus Realty of Livermore and Member of the Livermore Housing Advisory Committee; Personal Interview (6/29/79).  
Vane, Pat - Affiliated with Columbus Realty of Livermore and Member of the Livermore Housing Advisory Committee; Personal Interview (6/29/79).  
Vince, Ed - President of Interfaith Housing Inc., Livermore; Personal Interview (6/29/79).

### NAPA

Bolin, Ralph - Mayor, City of Napa; Personal Interview (7/3/79).  
Bullwinkle, Dave - Bullwinkle Realty, Napa; Personal Interview (5/24/79).  
Burch, George - Developer and Landowner, Napa; Personal Interview (7/3/79).

Flores, Luis -	Attorney and Concerned citizen; Personal Interview (5/23/79).
Hirsch, Bob -	Goldrich and Kess Inc., Los Angeles; Telephone Interview (7/5/79).
Kent, Marshall -	Developer, Napa; Telephone Interview (7/5/79).
Patterson, Dennis -	Pueblo Tenants Association, Napa; Personal Interview (5/23/79).





## APPENDIX C

### IDENTIFICATION OF STRATEGIES AND APPROACHES

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## I. INTRODUCTION

This is the third in a series of three working papers which deal with inclusionary land use measures. Inclusionary land use measures are mechanisms used by jurisdictions to expand the supply of affordable housing to low and moderate income households. In the first working paper, a detailed description of the inclusionary land use measures programs was presented. The intent of the first working paper was not only to describe the broad range of measures being presently used in jurisdictions throughout the nation, state, and region, but to begin some thought as to the possible measures that could be adopted and used in the cities of Cupertino, Livermore, and Napa.

The second working paper included: a detailed description of the issues surrounding the adoption of inclusionary land use measures in the cities of Cupertino, Livermore, and Napa; and preliminary strategies for the possible implementation of such measures in each of the three cities. The technique used to determine the issues surrounding the adoption of inclusionary land use measures was a series of interviews in each of the three cities. Those interviewed in each of the three cities included: each city's mayor; in two cities, a planning commissioner; local advocates for lower cost housing development; a developer who had done a lower cost housing development; a developer who is presently doing a housing development which includes lower cost units; and a developer who would like to do a housing development which would include lower cost units. The intent of the second working paper was to gather from each of the individuals interviewed a different point of view on low and moderate income housing. By combining these points of view into a perspective, the preliminary strategies were developed for review and comment by the staff from each of the three participating cities.

This third working paper refines the preliminary strategies offered for review in the second working paper. The strategies and approaches offered in this working paper were developed in cooperation with participating staff from Cupertino, Livermore, and Napa.

This working paper is divided into the following four sections: I. Introduction; II. Overview of Needs and Suggestions; III. Identification of Strategies and Approaches; and IV. Summary. It should be noted that Section III is divided into three distinct parts each dealing specifically with each of the three cities. The intent of structuring Section III in this manner is to make each of the three parts free-standing. Consequently, as the reader reads each of the three parts of Section III, the reader will become aware of some redundancy.

Some final notes, the terms "low" and "moderate income" used throughout this report are defined as below 80 percent of median income for "low" and between 80-120 percent of median income for "moderate". These definitions are consistent with those used by HUD, other federal agencies, and many local cities and counties. In addition, the phrases "low and moderate income housing" and "lower cost housing or units" are synonymous and used interchangeably.

## II. OVERVIEW OF NEEDS AND SUGGESTIONS

What follows is a statement of the perceived needs and recommendations for the three participating communities. These needs and suggestions are based entirely on two sources: (1) the interviews conducted during the preparation of Working Paper #2, and (2) subsequent interviews conducted with participating staff from each of the three cities.

### NEEDS AND SUGGESTIONS

Consensus on the part of individuals and staff from Cupertino, Livermore, and Napa as to the perceived needs and recommended suggestions was expressed in the following four areas:

1. Better coordination between local jurisdictions and HUD in regards to the Section 8 New and Existing programs.
2. The relationship between low and moderate income housing and job development.
3. Examples of good management of subsidized units and how important a factor good management is in a subsidized development's success or failure.
4. Better intergovernmental coordination in the housing field between the various government agencies involved.

### Better HUD-Jurisdiction Coordination

Need: Better coordination between local jurisdictions and HUD in regards to the Section 8 New and Existing programs.

Local jurisdictions need to obtain firmer commitments from HUD on the number of potential Section 8 New and Existing units a city can receive in any one year.

Suggestion: Two possible suggestions to addressing this need are:

1. To eliminate the Notice of Funding Availability (NOFA) procedure; and
2. To establish, by HUD, a yearly percentage guaranteeing cities a specific percentage of their goals as stated in the Housing Assistance Plan (HAP).

Both of these suggestions are related to and are an important part of an Areawide Housing Opportunity Plan (AHOP). By approving an AHOP, local governments would become eligible for additional housing subsidies and discretionary community development money; and they would also be adopting a new procedure enabling them to be more actively involved in the timing and allocation of

Federal subsidies within their county. An AHOP will give local jurisdictions more of a voice in subsidy allocations, thereby giving them a clearer sense as to a jurisdiction's potential for obtaining subsidies.

In the present NOFA procedure, HUD offers subsidies through banks and developers, not through local jurisdictions. HUD advertises for developers to construct housing or undertake substantial rehabilitation in certain areas. HUD then approves the housing projects if they generally conform to the local plan and if they satisfy HUD criteria. This process has resulted in (1) a sense of uncertainty that a jurisdiction will be selected for new construction or rehabilitation subsidies; (2) local government control being by-passed; and (3) local jurisdictions competing with each other for limited amounts of subsidies. Cities need to have a clear understanding of when and how much subsidized housing will be available. Better coordination and better understanding are necessary if local housing programs are to be successful.

From the HUD point of view, greater certainty that local jurisdictions have laid the groundwork for successful projects is needed. The AHOP would give HUD these assurances and will include a method by which communities can identify sites with some certainty that they will receive the necessary subsidies to develop them within one or two years. HUD could greatly aid local jurisdictions by inspecting a proposed housing development site for suitability before a city begins acquisition procedures. Along these same lines, HUD should provide more technical assistance to aid local staffs in addressing the following questions:

- (1) What are appropriate densities for family housing developments?
- (2) What are appropriate interior living spaces for seniors and families?
- (3) In the Bay Area, what are good examples of family housing developments?

#### Jobs/Housing Development

Need: To better relate the provision of low and moderate income housing with job development.

Suggestion: This is recognized to be largely a local responsibility and thus would entail local jurisdictions becoming more far-sighted, especially in their reviews of individual job and housing development proposals.

The present and projected situations in each of the three cities is different. Therefore, suggestions as to how to deal with this need differ in each city. In Cupertino, there is already an imbalance between jobs and housing. In 1975, the jobs to housing ratio was 1.7. This means that Cupertino has 70% more jobs when compared to the total number of housing units. Projections indicate that Cupertino will get "richer" in terms of future job development by 1990 as the jobs-to-housing ratio swells to 2.3. This will be the result of a 65% increase in jobs and about a 25% increase in housing units.



The situation in Livermore is quite different. In 1975, housing units outnumbered jobs by about a 2-to-1 margin. Projections indicate that jobs will increase by 60% while housing units increase by about 35% between 1975 and 1990. The projected increase in jobs and housing will result in an improved balance between jobs and housing.

In terms of Napa's balance between jobs and housing, in 1975 the total number of jobs was about equal to the total number of housing units. Projections indicate that housing growth will out-pace job growth by 12% between 1975 and 1990.

While it is important for fiscal reasons for cities to encourage job development and limit residential growth, it is equally important that a more complete assessment of job and housing developments be undertaken to ascertain both their incremental and cumulative impacts on the provision of low and moderate income housing opportunities. If jobs grow faster than the number of available housing units, then this is likely to increase the number of people who work in a city but who must find housing elsewhere. This not only strains transportation facilities during the commute hours but increases the demand for housing. In the long term, the availability and cost of housing could slow economic development. Consequently, while it is important for cities to pursue job development, it is also important for cities to deal with how the additional job opportunities match with local skills. In short, job development should be pursued, but the impacts of an increase in jobs while residential development is limited should be assessed for its effect (e.g., economic displacement) on low and moderate income households.

#### Good Management of Subsidized Units

Need: To address the question of good management of units and how important a factor it is in a subsidized development's success or failure.

Suggestion: It is generally recognized that good management depends on the developer first selected and to what degree the developer is committed to the long-term success of a subsidized development.

Both HUD and local city councils are interested in successful subsidized developments. HUD on the one hand has its reputation at stake, while local city councils have to answer to their constituents. Since HUD's experiences are much more varied and extensive, it is suggested that HUD (1) identify those subsidized developments which they consider to be successfully managed; (2) delineate the managerial techniques employed in the successfully managed subsidized developments, especially in those instances where new management greatly improved a failing development; and (3) identify those developers which HUD feels are most capable and committed to the long-term success of a development.

It is recognized that HUD possesses useful expertise and knowledge which can be useful to local staffs. Local staffs are interested in using HUD's skills to assure greater success of subsidized developments once they are built. Once subsidized units are built, it is important that the local citizens view them as being successful, since developments which are not thought to be successful are often pointed to when opponents of low and moderate income housing attempt to block the construction of these units.

In short, good management of subsidized units is recognized as an important ingredient in the long-term success and acceptance of both existing and future developments. Local staffs simply need to know more about them and the managerial techniques employed.

### Better Intergovernmental Coordination

Need: Better intergovernmental coordination in the housing field between the various agencies involved, particularly HUD, State Department of Housing and Community Development (HCD), ABAG, and the local jurisdictions.

Suggestion: In Working Paper #2, individuals often asked for better coordination between the city and the developer to attempt to smooth the way for construction of low and moderate income housing. Also needed is better coordination between levels of government involved in the housing field. Therefore, it is suggested that HUD, HCD, and ABAG better define their own roles.

HUD is the supplier of Federal dollars and possesses expertise that can be useful to local communities, as previously stated. Often times HUD, by virtue of its stature, is placed in the position of adversary and/or roadblock in local jurisdictions' attempts to provide low and moderate income housing opportunities. Clearly, HUD and local jurisdictions need to improve communications between them about their individual concerns and problems. From this improved communication, it is hoped that a better understanding will result from increased sensitivity to each other's concerns and problems.

HCD possesses a wide range of expertise and knowledge which can be the basis for providing technical assistance to local jurisdictions, such as giving them information on innovative housing techniques that have both succeeded and failed in other jurisdictions throughout the state. It is important for cities to learn from each other's mistakes and successes if the cause for additional low and moderate income housing is to be advanced. HCD could play a dynamic role in this function as both a clearinghouse for innovative housing techniques and source of technical expertise to those jurisdictions in need of aid.

ABAG needs to broaden and expand its role in the housing field. Perhaps the area in which ABAG can be most useful is in the area of technical assistance to local jurisdictions in two functions. ABAG can assist local governments in their attempts to provide lower cost housing opportunities and can act as liaison among HUD, HCD, and local jurisdictions to improve communication and understanding.

It is important that all levels of government agree to the overall objective of providing additional low and moderate income housing opportunities. It is equally important that the different levels of government recognize that local situations and politics vary. The primary concern should be that in spite of those differences the additional housing opportunities are built. To this end, greater understanding--once achieved--will result in more support for local efforts. It is recognized that this is a long-term goal, but important first steps need to be taken so that short and long term local needs and goals can be more easily addressed and achieved.

### III. IDENTIFICATION OF STRATEGIES AND APPROACHES

The intent of this section is to identify specific strategies and approaches applicable to each of the three cities. The strategies and approaches which follow are based on (1) the interviews obtained during the preparation of Working Paper #2, and (2) local staffs' perception of inclusionary land use measures having the best opportunity for implementation. It is hoped that the following strategies and approaches will provide the foundation for implementation of inclusionary land use measures.

#### CUPERTINO

##### CURRENT EFFORTS

The city of Cupertino is presently in the process of entering into a contractual agreement with the Santa Clara County Housing Authority which would make the authority responsible for the administration of the city's Below Market Rate (BMR) program. The city is also investigating the possibility of acquiring property from the Catholic Diocese at a reduced price for the eventual construction of additional BMR units. In addition, staff is investigating the possibility of using Community Block Grant funds to leverage additional housing funds for housing rehabilitation through the establishment of a Revolving Credit Agreement with a local savings and loan association.

Cupertino has been concerned with the jobs/housing imbalance question for about three years. The continued creation and expansion of job centers in the city has caused the cost of housing to increase sharply during this period. In an effort to address this problem, both the city council and planning commission have shown flexibility in rezoning additional lands for residential uses and upzoning land for increased residential uses. Additionally, the city is exploring the possibility of imposing an industrial fee for new or expanding jobs in the city. The money obtained from this fee would be used for the city's housing programs.

##### STRATEGIES AND APPROACHES

The following are the strategies and approaches thought to have the best likelihood for success in Cupertino. They include:

1. Continued use of density bonuses and priority processing as part of the BMR program.
2. Establishing an education process aimed at (a) obtaining neighborhood acceptance once a site has been selected for a development which will include BMR units, and (b) informing people about the relationships between job development and existing housing needs.
3. Setting up a public-private partnership aimed at familiarizing and encouraging private developers with the city and the BMR program.



## Density Bonuses and Priority Processing

Both density bonuses and priority processing are integral parts of Cupertino's Below Market Rate program. Density bonuses are granted to developers as incentives in order to meet the requirements of the BMR program. The city in an attempt to mitigate possible negative environmental impacts due to the granting of density bonuses has planned for the maximum number of units in areas where density bonuses are likely to occur. By planning for the maximum number of units, as opposed to a mid-range number, the city circumvents possible negative environmental impacts due to the granting of density bonuses.

In conjunction with density bonuses, the city uses priority processing as an incentive in the BMR program. Priority processing helps eliminate costly time delays and uncertainty. By eliminating some delays and risk, per unit construction costs are reduced--which when combined with density bonuses further enables developers to provide BMR units.

## Educational Process

Cupertino staff has stated that to date there has been little problem with local citizens understanding how the Below Market Rate program operates or the intent of the program. However, during the course of the interviews used while preparing Working Paper #2 there were some indications that at least some local citizens do not understand what the BMR program is all about and as a consequence had their misgivings about the program. In addition, many felt that these misgivings are based on community fear and a lack of knowledge about the present needs of Cupertino.

The city council, planning commission, and staff have all tried to overcome these misgivings and lack of knowledge. However, an ongoing community-wide education process is needed to deal with these misgivings and to inform the local citizens as the need arises. One approach might be to conduct neighborhood workshops outlining the BMR program and its components. These workshops can also be used to increase understanding of the relationships between job development and existing housing needs.

## Public-Private Partnership

The main purpose of such a partnership would be to familiarize and encourage private developers to work with the city and the BMR program. There is a need for increased private-public cooperation if the BMR program is to achieve its long-term goals. A foundation needs to be laid that will assure not only the continued success of the BMR program but other housing programs which the city is presently exploring. However, while mutual cooperation is viewed as desirable, a give-and-take on the part of both the city and developer must prevail if this goal is to be reached.



## LIVERMORE

### CURRENT EFFORTS

Presently, the city council is considering exempting a proposed 101-unit mixed income apartment complex from the city's Residential Development Plan (RDP). Lexington Homes, Inc. of San Francisco plans to begin construction next year on the 101-unit complex, of which 47 units will be Section 8 subsidized rental housing. The city is considering exempting the proposed development from its growth management program largely because the HUD approval schedules are erratic and do not coincide with the RDP process. The city has recognized that the HUD approval schedule will, at least in the short term, continue to be erratic and that proposed developments which include low and/or moderate income housing opportunities must proceed when the funds and developer are available.

In light of these considerations, the Mayor of Livermore has offered the following revisions to the city's growth management program:

1. Exempt subsidized housing proposals from the Residential Development Plan (RDP) once every four years up to a maximum of 25 percent of the permits available every four years.
2. Require, however, that subsidized housing applications have Federal or State approval; a minimum number of points from the rating system contained in the RDP; at least 20 percent of the units designated for low income; and the remaining units affordable for moderate income households.

The city council will also consider amending the city's general plan to require that at least 10 percent of each new development be affordable to low or moderate income families. In addition, the city is considering the charging of an in lieu fee as a provision when a development is unable to meet the proposed 10 percent requirement.

### STRATEGIES AND APPROACHES

The following are the strategies and approaches thought to have the best opportunity for success in Livermore. They include:

1. Revising the Residential Development Plan (RDP) to include:
  - a. Exempting the development of subsidized housing units from the RDP once every four years, up to a maximum of 25 percent of the available permits every four years. Included with such an exemption would be the concept of priority processing.
  - b. The granting of bonus points for those developments which exceed the proposed 10 percent requirement, but which do not qualify for a RDP exemption.
  - c. Establishing of a four-year goal in order to obtain a specific number of low and/or moderate income housing units.

2. Offering density bonuses to developers of low and/or moderate income housing after a complete evaluation of the potential effects of any and all granted or to-be-granted density bonuses is completed.
3. Implementation of the city's Landbank Program for the purchasing and holding of land for future low income housing.
4. Establishing an educational process with the intent of familiarizing local people with what exactly low and moderate income housing looks like and how the provision of such housing can be used to address local needs, especially the relationship between job and housing development.
5. Forming a public-private partnership to encourage private developers to work with the city and vice versa to further efforts to expand the supply of low and moderate income housing.

The above strategies and approaches are intended to provide a framework within which the city of Livermore can work. It is recognized that if the city is to be successful in its attempts to provide additional lower cost housing opportunities, then the city should approach the addition of such housing cautiously. Therefore, it is stressed that the city view the above measures as a comprehensive framework from which individual measures can be used incrementally.

#### Revisions to the Residential Development Plan (RDP)

The three potential revisions to the RDP include: (a) exemptions with priority processing; (b) bonus points; and (c) a four-year goal.

- a. Exemptions to the RDP with Priority Processing  
Currently, Federal announcements of available funds and approvals of potential projects are irregular and erratic. At the same time, the RDP has a limited application period which is fixed and occurs once a year. As a consequence, the present Federal and RDP procedures do not necessarily coincide. This situation could endanger any potential subsidized housing development and could perhaps call into question the city's commitment to providing lower cost housing opportunities.

In light of the above, it is recommended that exemptions from the RDP for subsidized housing proposals once every four years up to a maximum of 25 percent of the total permits every four years be supported. Implicit in the granting of such an exemption would be the concept of priority processing. Priority processing would allow proposed subsidized developments to receive immediate review outside of the RDP competitive process. Such proposals, however, would still be subject to obtaining a minimum number of points from the RDP's rating system.

b. Bonus points

Bonus points can be used as an effective incentive to the provision of low and moderate income housing opportunities. The granting of bonus points would be used in conjunction with the RDP's rating system. In order to qualify for bonus points, a potential development would have to exceed the proposed 10 percent requirement. An example would be a development which proposes to have 30 percent of its units available to moderate income households. After the proposed development has been rated, additional or bonus points are granted based on the city's recognition that the extra moderate income units will aid the city in addressing local needs.

c. Establishment of a four-year goal

The establishment of such a goal is tied closely with the proposed exemptions previously mentioned. By setting a four-year goal as opposed to an annual goal, the city allows itself more flexibility to meet its housing needs. Also, the four-year goal when combined with the units which could be potentially exempted from the RDP act as a floating reserve which can be used as an incentive to developers of potential subsidized and non-subsidized units. Additionally, the city could tie the establishment of a four-year goal together with its goals as contained in the Housing Assistance Plan (HAP). By setting a specific four-year goal for the construction of low and moderate income housing, the city not only refines its position but provides developers with an incentive to submit proposals that contain subsidized and non-subsidized low and moderate income housing units.

### Density Bonuses

Density bonuses could be granted to developers who wish to include lower cost units as part of their developments. As mentioned earlier, density bonuses do not necessarily mean that purchasers of market units in a development are subsidizing purchasers of lower cost units in the same development. Instead, if in exchange for a density bonus the developer agreed to forego some profit, then the savings could be passed on directly to the purchaser of the lower cost unit. There has been some speculation expressed that by allowing higher densities on some parcels you are increasing the profit or return on investment to the developer. This is true, but if a city allows density increases, it must require that the added units be made affordable to low and/or moderate income households and that the developer forego some profit by directly passing this saving on to the purchaser.

The granting of a density bonus should not be viewed on a project-by-project basis. Instead, it is extremely important that a city look at the granting of density bonuses on as comprehensive level as possible. Additionally, it is important that when viewing density bonuses comprehensively that the relationship of land availability and zoning practices be considered. Before an increase in permissible density is granted, an evaluation of the degree of neighborhood impact, the adequacy of municipal services and facilities, and conformance with all applicable parking, open space, design, etc., requirements should be undertaken. It is because of these potential negative impacts that density bonuses should only be granted on a small scale and after a comprehensive analysis.



One way to provide additional units at increased densities while at the same time being in conformance with local goals and objectives is to make use of Planned Development (PD) zoning. PD zoning allows more flexibility in providing housing units at higher densities because its primary concern is with the total number of housing units in a given area. This differs significantly from traditional zoning which is concerned with site specific development and densities. Planned Development zoning would allow the granting of density bonuses more readily because the necessary comprehensive analysis would already be completed in establishing the ultimate development goal for an area with PD zoning.

It should be stressed that once lower cost ownership units are built, Livermore should consider means by which to preserve these units in the affordable stock. The most effective mechanism used to protect the stock of lower cost units is a deed restriction (i.e., right of first refusal) which deals with the resale of the unit. Such a program could be administered by the city or the local housing authority at a minimal cost.

#### Implementation of the City's Landbank Program

The purchasing and holding of land for the future development of low income housing should be actively pursued. There is a need to preserve sites now before those available sites no longer exist or become too expensive to purchase. Ideally, this land would either have the proper zoning already or would be properly zoned for subsidized units once purchased. Such a commitment should be obtained from the city council stating that city owned land to be used for low income housing would receive the appropriate zoning when needed. HUD staff could be useful in this endeavor by making inspections of proposed sites for low income housing prior to the purchase by the city. This could save the city valuable dollars in the short term and eliminate possible misunderstanding with HUD in the long term.

#### Educational Process

The city needs to establish an educational process which would include two key elements: (1) to increase knowledge and understanding of what exactly is meant by low and moderate income housing; and (2) to increase understanding of the relationship between job development and existing housing needs. An ongoing community-wide education process is needed to deal with misconceptions and to better inform local citizens as to the present needs of the city. Such a process could include a slide show presentation to give people a visual image of what low and moderate income housing could look like. In addition, a bus tour to other cities which have successfully built and operated low and moderate income developments. Additionally, this process could be used to better inform local citizens on how the provision of low and moderate income housing can be used to address local needs. This could be accomplished by relating to citizens what types of households would qualify as low or moderate income households.

The second key element to an educational process would be to relate job development with the provision of low and moderate income housing. The potential for job growth in Livermore is great, however, restricting housing development could in the short term cause housing prices to increase while in the long term be a deterrent to job development. The potential negative impacts both in the short and long term fall most heavily upon low and moderate income households.



While it is important for housing programs to address local needs, it is equally important that projected job development match the skills of the local labor force. Job development is integrally related to housing growth. Consequently, the two should be considered in unison, especially in regards to local efforts to provide additional lower cost housing opportunities.

#### Public-Private Partnership

There is a strong need for a public-private partnership to exist if more affordable housing opportunities are to become a reality. There is a need to break down existing barriers between developers/builders; elected/appointed city officials; city staff; and private citizens.

The Building Industry Association (BIA) of Northern California has already offered its cooperation in the establishment of such a partnership as have many individual developers/builders. In addition, many officials and citizens have expressed a willingness to cooperate with the private building sector in an attempt to reach the goal of making additional lower cost housing opportunities available. The city should take advantage of this interest and attempt to get all of the various concerns together to pursue the goal of more affordable housing.

## CURRENT EFFORTS

Presently, the city council is reviewing three subsidized development proposals which responded to a HUD Notice of Funding Availability (NOFA). The three proposals include: (1) A 52-unit development with ten subsidized units; (2) A ten-unit development, 3 to ten of which would be subsidized; and (3) A 12-unit development, 4 to 12 of which would be subsidized. Projects 1 and 3 are requesting exemption from the Residential Development Management Plan (RDMP), which is allowable under an existing section of the RDMP. Project 2 does not presently need an exemption unless their request for a time extension for their approved project is denied.

The city council and staff have long had problems with the NOFA procedure and are very interested in having this process eliminated and replaced with a procedure which is both more workable and allows for more local control. In particular, the city would like to exercise more control over the selection of developers of Section 8 housing. Other concerns that the city has includes: (1) the lack of a consistent definition regarding low and moderate income; and (2) the lack of current housing data.

Napa staff feels that better intergovernmental coordination, as discussed in Section II, will lead to a more uniform definition of low and moderate income. Additionally, such coordination could result in more current housing data, especially in the following three areas: (1) type of housing available in different areas and cost; (2) housing needs of new residents in a community; and (3) the actual price existing houses are sold so that a better record of the true cost of housing can be maintained.

## STRATEGIES AND APPROACHES

The following are the strategies and approaches thought to have the best opportunity for success in Napa. They include:

1. Revising the city's growth management program to include a requirement that a specific stated percentage goal of new housing built each year be for low and/or moderate income households.
2. Preserving the following elements contained in the city's growth management program:
  - a. Bonus points to developers who include low and moderate income housing as part of their developments.
  - b. Exemptions to the rating system for developments providing 20 percent low and 50 percent moderate income housing as part of the development.
  - c. Exemptions from the rating system for senior low or moderate income housing using Section 8 or 202 funding.

3. Offering density bonuses to developers of low and/or moderate income housing, but using density bonuses on a small controlled scale.
4. Establishing an educational process with the intent of familiarizing local citizens with what exactly low and moderate income housing looks like and how the provision of such housing can be used to address local needs.
5. A public-private partnership to encourage private developers to work with the city and vice versa to further efforts to expand the supply of low and moderate income housing.

### Revising of Residential Development Management Plan (RDMP)

The establishment of a yearly goal would not only firmly establish the city's commitment to encouraging the development of low and moderate income housing, but would allow both the city and developers flexibility in meeting the city's housing needs. The proposed establishment of such a goal would entail a specific annual set aside for low and/or moderate income housing. If the specific annual set aside is not used, then the city could add any unused portion in one year to the following year's low and moderate income set aside. This combined amount could then be subtracted from the following year's total allocation thereby keeping that year's total allocation constant but increasing the number of low and/or moderate income units allowed in that year. This would encourage developers to submit proposals which included low and/or moderate income units. It could also allow for some flexibility on the part of developers because it could provide them with the opportunity to submit proposals which were at a economically feasible scale. This would occur after a sufficient amount of low and moderate income units had been accumulated for use in a given year.

The establishment of a yearly goal could also be used in conjunction with the existing RDMP exemptions. The city could encourage developers who failed to get their development proposals approved through the RDMP rating system to include either the needed percentages of low and moderate income housing, or apply for subsidized units that would make their developments eligible for one of the existing RDMP exemptions.

### Preservation of Bonus Points and Exemptions

The city's growth management program is still relatively new. As previously mentioned, the city is considering granting exemptions to the RDMP rating system to some proposed developments which include low and moderate income housing opportunities. The existing bonus points and exemptions should be preserved as integral parts of the RDMP. As time elapses, a better evaluation can be made as to the effectiveness of the bonus points and exemptions as incentives.

### Density Bonuses on a Small Scale

Density bonuses could be granted to developers who wish to include lower cost units as part of their developments. As mentioned in the second working paper, density bonuses do not necessarily mean that purchasers of market units in a development are subsidizing purchasers of lower cost units in the same development. Instead, if in exchange for a density bonus the developer agreed to forego some profit, then the savings could be passed on directly to the purchaser of the lower

cost unit. There has been some speculation expressed that by allowing higher densities on some parcels you are increasing the profit or return on investment to the developer. This is true, but if a city allows density increases it must also require that the added units be made affordable to low and/or moderate income households and that the developer forego some profit by directly passing it on to the purchaser in the form of a reduced price.

The granting of a density bonus should not be viewed on a project-by-project basis. Instead, it is extremely important that a city look at the granting of density bonuses on as comprehensive level as is possible. Additionally, it is important that when viewing density bonuses comprehensively that the relationship of land availability and zoning practices be considered. Before an increase in permissible density is granted, an evaluation of the degree of neighborhood impact; the adequacy of municipal services and facilities; and conformance with all applicable parking, open space, design, etc., requirements should be undertaken. It is because of these potential negative impacts that density bonuses should only be granted on a small scale and after a comprehensive analysis.

It should be stressed that once lower cost ownership units are built, Napa should consider means by which to preserve these units in the affordable housing stock. The most effective mechanism used to protect the stock of lower cost housing units is a deed restriction (i.e., right of first refusal) which deals with the resale of the unit. Such a program could be administered by the city or the local housing authority at a minimal cost.

### Educational Process

The city needs to establish an educational process which would increase both the knowledge and understanding of what exactly low and moderate income housing can be. Such a process should be ongoing and aimed at dealing with the misconceptions local citizens presently have about lower cost units. Through this process, an effort should also be made to better inform the local citizenry as to how the provision of low and moderate income housing can be used to address the present needs of the city. This process could include a slide show presentation to give people a visual image of what low and moderate income housing could look like. Additionally, an effort to relate to citizens what type of households would qualify as low or moderate income households needs to be made to further the acceptance of such units and households.

### Public-Private Partnership

There is a strong need for a public-private partnership to exist if more affordable housing opportunities are to become a reality. There is a need to breakdown existing barriers between developers/builders; elected and appointed officials; city staff; and private citizens.

The Building Industry Association (BIA) of Northern California has already offered its cooperation in the establishment of such a partnership as have many individual developers/builders. In addition, many officials and citizens have expressed a willingness to cooperate with the private building sector in an attempt to reach the goal of making additional lower cost housing opportunities available. The city should take advantage of this interest and attempt to get all of the various concerns together to pursue the goal of more affordable housing.



#### IV. SUMMARY

Each of the three cities agree that there is a need for: 1) better coordination between HUD and the local jurisdictions; 2) relating the provision of low and moderate income housing with job development; 3) the question of good management of units and how important a factor it is in a subsidized development's success or failure; and 4) better intergovernmental coordination in the housing field between the various levels of government.

The adoption of an Areawide Housing Opportunity Plan (AHOP) and more assistance from HUD staff to local jurisdictions would greatly aid in addressing the first need. The AHOP would give local jurisdictions more of a voice in subsidy allocations and qualify the Bay Area for additional housing subsidies and discretionary community development money. More assistance from HUD staff to local jurisdictions could be offered by inspecting a proposed housing development site for suitability before a city begins acquisition procedures.

In relating the provision of low and moderate income housing with job development, cities should be careful to assess the impacts of promoting job development at the possible expense of lower cost housing opportunities. This is recognized to be largely a local responsibility and would entail local jurisdictions more carefully assessing local impacts of proposed job developments.

Good management of subsidized units is an important ingredient in both the long term operational success of a development and local citizen acceptance. Local staffs simply need to know more about the managerial techniques employed in successful developments as well as those developers who are most committed to the long-term success of a subsidized development.

It is important that all levels of government agree to the overall objective of providing additional low and moderate income housing opportunities. It is equally important for local situations to be more fully understood and appreciated by the various government agencies involved. To this end, HUD, HCD, and ABAG need to better define their roles so as to be of assistance to local governments in achieving the overall objective.

The four strategies and approaches shared by each of the three cities include: 1) density bonuses; 2) priority processing; 3) establishment of an educational process; and 4) a public-private partnership. Cupertino already utilizes both density bonuses and priority processing as part of the city's Below Market Rate (BMR) program. Napa utilizes priority processing when it grants exemptions to its growth management program, while Livermore is presently considering incorporating this concept into its growth management program. Density bonuses is a strategy being recommended for consideration in both Livermore and Napa.

It is interesting to note that developers interviewed in the preparation of the second working paper generally favored the use of both density bonuses and priority processing as a means to obtain lower cost units. Cities should work closely with developers when granting density bonuses to assure that purchasers of market units are not subsidizing purchasers of lower cost units. Cities should also view density bonuses on as comprehensive a level as possible to avoid possible negative environmental impacts. Additionally, once lower cost units are built cities should consider implementing effective measures to maintain the units in the stock of affordable housing. The most effective measure developed to date is the right of first refusal (i.e., deed restriction) in the resale of these units.

The establishment of an educational process to better inform citizens about low and moderate income housing is important if there is to be community support for the construction of such housing. Misconceptions as to what low and moderate income housing is and how the provision of this type of housing can be used to address local needs presently prevails. These misconceptions must be overcome by establishing an educational process which can be incorporated into the ongoing housing programs of each city.

A public-private partnership between local government and developers needs to be established so as to overcome suspicion and improve relations. These improved relations could result in a better understanding of the problems and concerns confronting both sides. The intent of such a partnership would be to increase the number of lower cost housing units.

Other strategies and approaches include: 1) establishment of stated goals for low and/or moderate income housing for both Livermore and Napa; 2) exemptions to the growth management programs of Livermore and Napa; and 3) the awarding of bonus points for developments which provide either a required percentage of its units for low and moderate income households (Napa) or when a development exceeds a required percentage (Livermore). Additionally, the implementation of Livermore's Landbank Program for the future development of low income housing should be actively pursued to preserve sites for development before those available sites no longer exist or become too expensive to purchase.



## APPENDIX D

There are a wide variety of housing programs aimed at providing affordable housing to low and moderate income people. What follows is a brief description of some programs presently in use.

### Orange County

Orange County has an inclusionary ordinance which requires that 25% of all new housing units built in the unincorporated areas of the county be affordable to people earning \$24,480 a year or less. This ordinance has resulted in the approval of about 1,500 units.

### Sacramento

The Sacramento Housing and Redevelopment Agency has created and sponsored a number of innovative housing programs. Included among them are:

1. The purchasing of eight repossessed single-family units from HUD. Using Section 8 Substantial Rehabilitation Financing, the units were rehabilitated and put into the agency's stock of rental units.
2. The purchasing of ten single-family units in a new subdivision using Section 8 funds. This program was developed through California Housing Finance Agency (CHFA) under their HoHi Program.
3. With HUD approval, the agency has purchased 205 units, the majority of which are single-family units, using the Annual Contribution Contract that is normally reserved for new construction. This program has been successful in dispersing low income families into moderate and middle income neighborhoods.
4. The agency has purchased four repossessed units from HUD and is in the process of selling these units to low income families. In lieu of a down payment, the families will perform the majority of the necessary rehabilitation work.
5. The agency will purchase 165 units, the majority of which will be detached homes, which are in need of substantial rehabilitation. Annual Contribution Contracts will be used. After rehabilitation, these units will be put into the agency's stock of rental units.



## San Rafael

In the City of San Rafael, construction is underway at San Rafael Commons, and 83 unit community in downtown San Rafael designed for the elderly and handicapped. The development will consist of 36 studio, 37 one-bedroom, nine one-bedroom units for the handicapped; and an on-site manager's unit.

The development is a joint venture of Pacific Union Development Company, and the Ecumenical Association for Housing, a non-profit housing development. It is FHA insured under HUD's Section 8 Rental Housing Assistance program. Interim and permanent financing is being provided by Wells Fargo Bank at below market rates. This combined with HUD's cooperation cleared the way for tax-exempt bond financing through the Marin County Housing Authority's Development Finance Corporation.

## Berkeley

Savo Island Coop in Berkeley is a 57-unit limited equity cooperative development. The development consists of 47 family and 10 elderly/handicapped units. The cooperative used Section 213 financing and obtained 98% insurance on the mortgage. Savo Island also received 7 1/2% tandem financing on the total development which consists of 100% Section 8 units. Savo Island will insure the availability of the units for a given income group for the life of the property. Furthermore, the limited equity component of the development insures that future increases in monthly costs are due to increases in monthly expenses.

## Marin County

Marin County is presently considering an ordinance which would provide for the following:

1. 15 unit projects and more are to be eligible for inclusionary zoning, i.e., include units for low and moderate income persons.
2. An economic incentive to developers to include low and moderate income units up to a 10% maximum density bonus will be granted and will be decided according to criteria such as land capability, availability of public utilities, public transportation, etc.
3. If inclusionary units are found to be unsuitable, in lieu payments will be made by the developer and be used in the area where collected, unless by 4/5 vote of Board of Supervisors they are transferred to a needier area.
4. 5% of subdivisions (raw land) is set aside for inclusionary units.

5. Priority consideration has been eliminated from the ordinance as being unfair to the smaller projects submitted for permit processing.

### San Joaquin County

Self-Help Enterprises (SHE) was incorporated in 1965 to work with lower income people in San Joaquin County. SHE utilizes self-help techniques in construction to obtain quality low-cost housing. Farmers Home Administration (FmHA) has been the primary source of funds for SHE projects. To date, thousands of homes have been constructed for families involved in the self-help activities under the guidance of SHE (other self-help programs exists in Novato and Chico).

### Oakland

Oakland Neighborhood Housing Services (ONHS) has recently purchased a site on which 14 owner built homes will be constructed. ONHS is now in the process of qualifying 14 low-income families who are willing and able to join in a cooperative construction project. The families involved will help each other and themselves in the construction of their homes. This "sweat-equity" approach is being coordinated by ONHS and is the result of lenders, city officials, residents, architects, and staff working together to help revitalize neighborhoods.

### City of Santa Clara

Agnews State Hospital, City of Santa Clara, and staff from the State Department of Housing and Community Development are presently discussing plans for the development of 70 acres of the hospital's property. As currently being discussed, some of the housing would be for rent and some for sale. All of the housing would be constructed by private developers who would not buy the land, but lease it on a long-term basis from the state. In exchange, some of the housing would be offered at below-market rates with federal or state assistance. The city is pushing for 1,000 housing units, but the exact number has yet to be determined.

### Hayward

Eden Housing, Inc. a non-profit housing development corporation supported by the City of Hayward is presently pursuing a number of affordable housing proposals. They include: 1) scattered site rental housing for families; 2) single parent coop; 3) CHFA/HUD ownership housing; 4) cooperative conversions (assistance to 25 low to moderate income tenants to purchase their existing building and convert it to a limited-equity cooperative); 5) self help townhouses for families; and 6) college housing.



## Housing Study Gets Started

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Dan Lopez, staff planner for the Association of Bay Area Governments, said yesterday that he will begin this week to set up interviews with local developers, city officials and interested citizens to check out prevalent attitudes in the city toward low and moderate cost housing.

The interviews are one component of an ABAG study of three communities now wrestling with the problem of providing affordable housing for their residents.

The study, which is financed by the federal Department of Housing and Urban Development, will also have the benefit of regional and state planning staffs.

Its main goal is to discover what incentives are available for low and moderate cost housing efforts in Livermore, Napa and Cupertino, and to shed light on whether those cities should

rethink their approaches to the provision of such housing.

Lopez wasn't ready yesterday to say whether the study would result in formal recommendations to the city council on new approaches. But he said that at the least the working papers (consisting of a review of what cities are doing, the interviews with significant individuals in the housing area and strategies the planners will develop after they review all the information) together with a final report on the opportunities and pitfalls of trying to provide low and moderate cost housing, will be turned over to Livermore's housing coordinator Russ McCubbin.

Lopez said he plans to finish local interviews, including one with Mayor Marshall Kamena if possible, by the end of June. The final report should be ready by the end of September, he said.



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## Affordable housing workshop set in Livermore

LIVERMORE — An affordable housing workshop putting in perspective this city's attempts to provide low and moderate income housing, has been scheduled for Wednesday.

Sponsored by the Housing Coordination Committee, the approximately 2 1/4-hour session will begin at 7:30 p.m. at the Multi-Service Center, 3311 Pacific Ave.

Sylvia Seman of the Palo Alto Housing Corporation will speak on the peninsula community's efforts to provide low and moderate income housing. Dan Lopez of the Association of Bay Area Governments opens the program by discussing affordable housing programs in com-

munities throughout California.

He will concentrate on initiatives by local governments and responses by builders.

Ed Schilling, assistant city manager, will outline a proposed housing action program, reviewing Mayor Marshall Kamena's proposals for low and moderate housing, and landbanking by the city.

Panelists and workshop participants will conclude the evening with a discussion.

Karen Natrass, committee chairperson, is organizing the workshop in conjunction with Housing Coordinator Russ McCubbin.

VALLEY  
TIMES

## Low-income housing workshop set

LIVERMORE — Community efforts to providing low and moderate-income housing is the subject of a workshop being scheduled by the Housing Coordination Committee for Wednesday, Aug. 15.

Set for the Multi-Service Center, the evening roundtable will feature guest speakers from the City of Palo Alto and Association of Bay Area Governments. The committee is also inviting city councilmen, planning commissioners, Housing Authority board, Interfaith Housing, the League of Women Voters, and the Social Concerns Committee.

In addition, all interested citizens are encouraged to attend.

Russ McCubbin, housing coordinator for the city, says five topics will be discussed:

- Community needs for affordable housing.
- Ideas of private developers to build lower cost housing.
- Landbanking program by the city.
- Density bonuses and other local incentives to developers.
- Successful housing programs in other cities.

The Housing Coordination Committee has prepared a series of questions and answers that they believe are pertinent to the low/moderate income housing situation in the city.

Among them are: why private developers need incentives to build affordable housing in Livermore? Listed as reasons are "failure of the March 6 referendum prevents the Housing Authority from applying for federal funds to build new public housing." Also cited is the shortage of land available for high density development, high mortgage interest rates on loans, local growth controls, and development fees.

As part of the followup to the workshop, McCubbin says the City Council will tentatively hold a public hearing on Aug. 27 to discuss proposals for including general plan provisions for low and moderate income housing.

SEPT 10

# Low-income housing plan draws suburban protest

By John Miller  
Staff Writer

**Livermore**—Residents in the northwest part of this city are gathering petitions to protest development of an apartment complex that will include units for low- and moderate-income families.

The residents plan to take their protest to tomorrow evening's City Council meeting, when the subject of allocating sewer connections for the project is scheduled for discussion.

Joan Basacker, a spokeswoman for residents living in the Murrieta Boulevard-Olivina Avenue area where the 125-unit apartment complex will be built, said the issue is one of increased traffic, overcrowded schools, inadequate parking and increased crime from the high-density development.

"We are against high-density development in a single-family residential area," Basacker said. "Most of us who moved here didn't have any say in the (multiple) zoning for that site and we want a lower density for it. We would prefer it to remain as a vacant lot, but that may be wishful thinking."

Basacker conceded some residents have expressed fears the project—proposed by Lexington

Homes of San Francisco—will become another predominantly low-income public housing project and may bring increased crime into the area, which she said already has one of the highest crime rates in the city.

"To some extent, some people are afraid that the influx of high density will increase the likelihood of crime, but that is only a minority viewpoint," she said. "Most of us are simply against high density in that location."

Lexington spokesman Darrell Graves said that of the 125 units, 47 will be set aside for families who qualify for U.S. Housing and Urban Development Department rent subsidies. Under that program, low- and moderate-income families pay a monthly rent that does not exceed 25 percent of their income.

"This is not a public housing project," said Graves. "It is being built with private capital. Lexington will own and maintain it."

Graves said rental housing for low- and moderate-income families is "critical" and that private developers cannot supply housing that these income groups can afford without some federal assistance.

The remaining 27 rent-subsidy units will be for other low-in-

come families who can't afford market-rate housing, he said.

Graves said rental housing for low- and moderate-income families is "critical" and that private developers cannot supply housing that these income groups can afford without some federal assistance.

One city official told The Tribune that some of the residents are using traffic and schools and other issues to mask their real concern, which is that the project will attract "undesirable" tenants often equated with low-income families.

"They are afraid of another Leahy Square," the official said (Leahy Square is a low-income housing project built with federal funds).

But Basacker again said the problem was with density, not poverty.

"We are not opposed to poor people, elderly or handicapped," she said. "We are opposed to the location of the project in an area which already has enough problems. Most of us were surprised to learn that the site was zoned for multiple dwellings."

In addition to presenting their petitions, the neighborhood group will also ask the city to prepare an environmental impact report on the project before approving it.

# Deadline approaching for low-income housing plan

By John Miller  
Staff Writer

Livermore—The City Council found itself caught in the middle this week when it took up a debate on low-income housing.

Specifically, the council must decide by Oct. 15 on an overall strategy to implement the low- and moderate-income housing provisions of the city's general plan. The same deadline awaits its decision of whether to approve a 125-unit apartment complex that includes 47 federally-subsidized units for the elderly, handicapped and low-income families.

Federal guidelines define low income as a family of four earning \$16,500 a year or less. Moderate income is defined as between \$16,500 and \$24,000.

Lexington Homes of San Francisco wants to build the apartment complex at Murietta Boulevard and Olivina Avenue on a 13.5-acre site zoned for 195 apartments. The planning commission has recommended that the density be increased to 125 units to accommodate the project.

But opponents say they have a petition signed by more than 600 residents who oppose the project in their neighborhood because of alleged problems with traffic, overcrowded schools, inadequate parking and more crime.

Although most opponents avoided the low-income issue and, instead, limited their objections to alleged planning and traffic problems, some speakers did criticize the density and low-income part of the project.

Bill Gibson said he was "sick and tired" of high-density developments and asserted that federally subsidized housing doesn't work.

"And now they want to build these with my tax dollars in a neighborhood where I can hardly make my own house payments."

(Renters of the 47 low-income apartments will pay a maximum of 25 percent of their monthly income on rent, with the federal government paying the difference between that and the actual rent.)

Bill Basacker, spokesman for the homeowners, said the majority of his neighbors are not opposed to low- and moderate-income families, but just don't want the development in their neighborhood.

But many community groups favored the project, including the League of Women Voters, the Social Concerns Committee, the Livermore Housing Authority, the Housing Coordination Committee, the Tri-Valley Haven for Women, Leahy Square Tenants Association, Eden Council for Hope and Opportunity, Alameda County Legal Aid Society and the Association of Bay Area Governments.

Manuella Scott, Legal Aid attorney, said there is a "low-income housing crisis" in Livermore and that the city has failed to solve it.

She reminded the council that both state and federal laws require cities to meet housing needs of all income groups. "You can't operate as an island and limit (housing) to one income category," she said.

Scott said housing will be needed for 800 to 900 new employees when the Intel Corporation expands its Livermore plant.

City Councilman Marlin Ebert, who has voted to accept federal and state funds to expand the city sewer system to accommodate Intel and other developments, said he opposes federal subsidies for housing because he isn't convinced there is a real need for it.

Scott disagreed, saying there are 300 families on a waiting list and there may be the need for as many as 670 low-income units "now, today."

One housing official told The Tribune yesterday that if Livermore rejects the Lexington proposal, it could lose future U.S. Housing and Community Development Act funds, of which the city has received more than \$1 million in the last four years.

A veteran City Council observer said he believes the council wants to approve the Lexington project "but there is an election in March and the support (for Lexington) may be fading."

At least three council members are potential candidates for mayor in next year's election—Mayor Marshall Kamena and council members Dale Turner and Ebert.

The council two months ago urged Lexington to submit its plans to the city and, up until last Monday's council meeting, the project appeared to have the support of the majority of the council. Ebert is the only councilman to announce his opposition.



## Low-income plan's critics challenged

By KEITH ROGERS  
Times Staff Writer

LIVERMORE — Schools won't become overcrowded. Crime won't rise significantly. And the traffic on Murietta Boulevard can be handled with proper road improvements.

That's what city officials said Wednesday when they were asked to analyze the impact of a proposed, lower-income apartment complex by Lexington Associates at the corner of Murietta and Olivina Avenue.

Homeowners in that neighborhood fear overcrowded schools and traffic congestion if the project is built, bringing between 105 and 125 units to the northwest section of the city.

Forty-seven of those units have been set aside for lower-income families to rent under subsidies from the federal Department of Housing and Urban Development.

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## Lexington...

From page one

"No way can they (homeowners) say it will overcrowd the schools," said Rudy D'Ambra, director of facilities management for the Livermore Valley Unified School District. "They'll have to rely on other reasons," he said, in order to defeat the project when it comes before the City Council for a public hearing Oct. 15.

D'Ambra said that the attendance area where Lexington wants to build could absorb 200 more elementary students while the 125-unit complex would produce only 53 students.

And as for the intermediate and high schools in that area, they're "not at capacity" either, he said.

Principals at the three elementary schools in the area Rancho Las Positas, Marilyn Avenue School, and Rincon School — all say they could take on more students and still maintain the maximum allowable student-teacher ratio, which is 32 to one.

The school that would absorb the most students from the Lexington development is Marilyn Avenue School, which has a present enrollment of 562 but needs 60 more students to reach capacity.

As for concern about the anticipated crime problem, it's "a natural phenomenon" that more people living in an area means more police calls, said Livermore Police Chief Mel Nelson.



Livermore Police Chief Mel Nelson pointed to this publicly-funded apartment complex, Leahy Square, as an example of

how "strong management" can alleviate crime problems.

But, he said, as far as another apartment complex in the city is concerned, an increase in crime would depend on how "strong" the apartments are managed and what age group the people are who live there.

"We used to have problems at Leahy Square, which is a low-income complex," said Nelson. "But things are smooth there now because they have a strong manager and pride in the place."

"Whenever you get a cluster together, there is to some extent an impact on

crime. But it depends on the age group," he said adding that police tend to have more problems with neighborhoods where there's a lot of teenagers and parties parties.

Areas where there's a mix between the elderly and young couples with children give them the least problems, the chief said.

Planning Director Howard Neis said traffic congestion would be "insignificant" if Lexington is built, even if the council agrees to rezone the parcel

to a higher density allowing 125 units.

He said the proposed apartments would include road improvements which would widen Murietta Boulevard to four lanes, ultimately adding an underpass to the railroad tracks along Stanley Boulevard.

By making the stretch of Murietta between Olivina Avenue and Stanley Boulevard four lanes, Murietta would become a major roadway because it's already four lanes wide on either side of the cross streets.

Certain city organiza-

tions, including the League of Women Voters, the Livermore Housing Authority and the Tri-Valley Haven for Women, support the Lexington development despite a showing of 125 homeowners who protested it at the last council meeting.

Dawn Metheny of the Tri-Valley Haven for Women told councilmen Monday that her organization serves several hundred women per year. Some of them, she said, have no place to live and could use low-income housing.



## Viewpoints

G. Gordon Strong  
PresidentAlbert Dolata  
Publisher

## An editorial

## The value of low-income housing

The Livermore City Council tonight will consider whether to allow construction of an apartment complex that will include units earmarked for families receiving federal rent subsidies.

On the surface the issue may seem to be entirely a moral question: Does Livermore have an obligation to provide its share of housing for the poor persons in the Bay Area? This, however, is not the main question. There are some practical reasons why low-income housing is needed in Livermore as well.

The Livermore Valley has been successful in recent efforts to attract light industry and commercial development. Intel Co. plans to hire 600 to 800 more persons to work in its Livermore plant within the next three years. The \$60 million Stoneridge Regional Shopping Center will provide hundreds of more jobs when it opens in nearby Pleasanton next fall.

One reason sometimes cited for the Livermore Valley's success in attracting new industry is the rising cost of housing in the Santa Clara Valley. The average factory worker can no longer afford to buy a house in the Santa Clara Valley. There is a lesson here for the Livermore Valley.

The average resale price of a house in Livermore is \$85,000. The cost of a newly constructed home is closer to \$100,000. Except for the project on tonight's agenda, no apartment buildings have even been proposed in the past five years.

Meanwhile, 30 percent of Livermore's population is classified as "low-income." Another 30 percent is considered to have "moderate" incomes. Today, under federal guidelines, a family of four making less than \$16,000 a year in the Bay Area is considered to have a "low" income. A "moderate" income is \$16,000 to \$24,000. Both groups can, in many cases, qualify for rent subsidies.

These income categories include school teachers, secretaries, factory workers and sales clerks. The Livermore Valley must provide housing for people in these occupations if it is to have a viable economic future.

Despite this, there has been opposition to the proposed apartment complex. No one, of course, has said he is opposed to providing housing for low-income families under any conditions. Instead, objections are ostensibly based on the increased traffic, overcrowded schools, parking problems and crime that apartments might generate.

These are all valid concerns. Yet we suspect emotionalism, rather than logic, lies behind most objections. "Low-income housing" conjures images of Eastern ghettos with all their inherent problems, not garden apartments occupied by factory workers.

If Livermore does not provide housing that factory workers and school teachers can afford, there will be few factories moving to Livermore. Manufacturers are reluctant to build in areas where workers cannot afford housing. If the factories are built anyway and workers are forced to commute to Livermore from Hayward or Tracy, this will only increase the area's traffic and smog problems.

Livermore, of course, is not the only community which has been reluctant to provide housing for families with low- and moderate-incomes. A similar dispute is going on in Pleasanton, which recently rejected a proposal for a development where rents would be subsidized. A revised proposal is expected to come back before the Pleasanton City Council later this month.

The decisions on whether to allow low-income housing should not be based on emotionalism. There are extremely practical reasons why cities must provide housing for all economic classes. The Livermore City Council would do well to keep that in mind tonight.

Joseph Harsch

# Livermore Approves Lexington, Low Cost Housing Plan Change

LIVERMORE--This city spoke loud and clear Monday on its commitment to providing affordable housing for all its residents.

Faced with a petition signed by 1000 persons opposing a subsidized housing project and a full house of speakers -- many of them vigorous opponents of the controversial project -- the city council voted 4-1 to give Lexington Homes, Inc., the zoning and sewage allocation the firm needs to build the project. Marlin Ebert dissented.

The council then voted 3-2 (Ebert and Dale Turner dissenting) to reword the general plan provisions calling for 10% of each new tract to be built as low AND moderate cost housing. But to the surprise of many, the new wording was not the less stringent staff and planning commission recommendation to require 10% low OR moderate cost housing, but a much more stringent requirement for 10% low cost housing.

"I'm going to go fall on my sword," exclaimed a startled Marlin Ebert, who has implacably opposed what he believes are unnecessary controls on the market place.

Both votes came around midnight, and both motions were authored by John Staley, who campaigned two years ago on a platform of making tangible the city's commitment to af-

fordable housing.

On the Lexington project, Staley said the location, which the neighbors said was ill-planned, is extremely inappropriate, and that it is the best proposal he has seen to provide low moderate cost housing.

Moreover, he added, there are serious penalties in store for the city.

(See LEX 108, Page 1)

## Low Cost . . .

(continued from page one)

it does not meet federal mandates to provide lower cost housing. The loss of federal and state funds the city count on would be far more detrimental to the community than would the presence of Lexington's 125 apartments, 47 of which are to be subsidized under federal Section 8 guidelines, he said.

The new requirement for 10% low cost housing in each tract permits a developer to pay an in lieu fee instead. The fee would be equivalent to the cost of land elsewhere in the city sufficient to contain the number of units which would otherwise be built in the tract.

Dahlbacka proposed an amendment to Staley's motion that would have in addition required 20% of each tract to be moderate cost housing, but it was not supported. Staley commented that he is reluctant to use such coercive measures unless absolutely convinced it must be done that way. While he has that conviction about low cost housing, he pointed out that there have been a number of applications for moderate cost housing this year.

The new wording will have a much more far-reaching impact on the city's housing stock than the 47 units Lexington will build.

Glen Dahlbacka, who seconded the motion added that he was surprised at the "tragic amount of fear and distrust" neighborhood residents showed in their comments about the project and those who would dwell in it. He said his campaign platform had included the goal of a balanced community, and that the Lexington project would help attain it.

Dale Turner pointed out that residents had opposed the rezoning on grounds that the change would increase crime, worsen traffic and impact schools. But, he said, there is no evidence that that is really true, and so "I can't support denying low income people the rights you and I enjoy."

Turner also pointed out that the new zoning will actually give the council more control over the design since it will be developed under the planned unit development process.

Only Ebert supported the project opponents. He said that subsidizing those eligible for the units is "pure hokum, pure nonsense." He said he'd been broke one year, but "I pulled myself up by my own bootstraps." He said the council's action would be "leaning toward socialism" and that he is "categorically opposed to continuing government spending."

If the end of the evening belonged to the city council, the beginning belonged to the public, who alternated between pro and con views at the podium for over two hours of public hearing time.

Homeowners near the project site at Murrieta Boulevard and Olivina Avenue had hired a lawyer and produced

number of different angles, sometimes painting dramatic pictures of what would happen if "those people" moved in -- children being shot, invasion of the from garbage dumpster, pet-running wild, and mothers fatigued from nightly activities sending children to school hungry or not sending them at all and thus losing state attendance money for the school district.

That tack resulted in some counter-punching from project proponents. Legal Aid spokesperson Manuela Scott suggested the speakers might be more honest if they simply instituted a border patrol to keep out anyone without a high enough income. She added that it would be illegal for city officials to discriminate against a project on grounds it would attract lower income residents.

Other opponents spoke more philosophically about their fears that the project would help destroy their "American Dream" of a home in a neighborhood of their own choosing.

"Government has no right to jeopardize the rights of the people, or destroy their hopes and security," said George Petris.

William Nebo, minister of the Presbyterian Church of Livermore and the father of children who will go to neighborhood schools, said that in contrast to 19th century America, when "seething social problems" were ignored and the poor were corralled into blighted areas, the Lexington model will disperse low income residents among those with higher incomes.

"I realize this has risks for the neighbors," Nebo conceded. "But my wife and I think the risks are worth taking."



## Lexington proposal draws heated debate

By CONNIE RUX  
Times Staff Writer

**LIVERMORE** — Nearly 200 people packed the City Council chambers and the hall outside the chamber Monday night to contest a controversial proposed government subsidized apartment complex.

The majority of the people spoke out against the Lexington Homes complex at Murrieta and Olivina. The 125-unit development would include 47 subsidized dwellings, with tenants paying a portion of the rent and the government picking up the rest.

Only about 30 members of the large audience were able to reach the podium, but others expressed their views with upraised placards quoting such concepts as "federal control of our town," "Nix Lex," and "They say there's a need but isn't it just greed?"

The people were divided into two strongly emotional camps, those viewing the complex as a potential harbor for "prostitutes, drug dealers and high crime," and those seeing the low-income dwellings as a means of finding adequate housing in a high cost area.

"We feel the ultra-high density is in direct violation of our constitutional rights," declared Joe Lombardo, one of five grassroots homeowner representatives speaking as a block. That group, represented by lawyer James Wharton, presented a petition of nearly 1,000 names.

The five speakers discussed the impact of the proposed complex on the neighborhood, safety, schools and health for nearby residents.

One of the five said he had been a security in a low-cost housing development for over five years and had moved to the Livermore area because of its low crime rate.

"Had I known low cost housing was coming in, I would not have bought my house," he said.

On the other side, speakers included city and social workers and residents who said they would qualify as low-income tenants if the development became a reality.

One woman, who said she had been an aide in a Livermore school for six years, noted that her drivers had to live in an adequate house. "I feel left behind that I can't live in a community I serve," she said, adding that she, like most other low-income residents, was not a prostitute or a drug pusher.

Richard Smith told the council, "I think it's about time you gave the government back to the people, not to the special interest groups. I love Livermore and I can't afford to move."

A defender of the proposed land, Ruth Fries said she moved to Livermore in 1966 with her husband and two babies. "I found I wasn't wanted. The burglar didn't want to rob us. The teachers of young people."



Proponents and opponents of the Lexington apartment complex jammed the Livermore City Council chambers Monday night. Photo by Michael Maccor



• Soccer teams win four titles, page 4.  
 • Festival to feature Crystalslites, page 13.  
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SERVING LIVERMORE, PLEASANTON, DUBLIN, SUNOL, SAN RAMON

# THE Independent

## Low Cost Housing / Friends And Foes Rally To Issue

By JOAN BOER  
 LIVERMORE-Dorothy Peralta's testimony was brief and inconspicuous and her voice was quiet at the jam-packed public hearing Monday on city low cost housing policies.

She merely said she'd been looking for a place in Livermore for some time but that she can't afford anything decent.

She was the only low-income resident to comment on her own housing needs during the lengthy hearing, although more forceful speakers provided a variety of characterizations of the persons all the fuss is about.

Referring to the federal Section 8 subsidy which is a feature of the pending Lexington Homes low cost housing, resident Ray Fallings said he isn't willing to see his grandchildren subsidize people "unable or unwilling to get out and make it on their own."

"If I could get off my duff and pay my way, I can see no reason why these people can't get off their duffs and make it," said Fallings in a voice choked with emotion.

A former security guard said residents of low cost complexes often engage in prostitution, drug peddling and marketing of stolen goods. He said he could see the need for low cost housing, but it should be spread out, not in big projects.

(The Lexington project proposes 125 units, 47 of which would be reserved for low-income residents who could qualify for Section 8 subsidies.)

Many who live near the proposed Lexington project chose not to attack their potential neighbors directly, but suggested that a project there would flood their schools with extra children, cause traffic problems and just wouldn't work.

Area resident Bill Gibson said he moved to Livermore to get away from high density projects, and George Petris complained that any change in the land would interfere with his right to live where he wished and would destroy some of his basic freedoms. (The property proposed for the pro-

ject, now undeveloped open space, is being recommended for rezoning which would allow a higher density. Since 1968 it has been zoned RG-10, allowing apartments at a density of 10 units to the acre.)

Bill Brasecker, acting as spokesman for many of his neighbors and armed with a petition of over 660 signatures, eventually decided to deter most of his testimony after being reassured that a subsequent hearing October 15 would provide time to present his specific objections to the Lexington project.

After most of the objections had been aired, a number of citizens or workers involved in the housing field tried to cast low income persons in a more favorable light. They pointed out that over 30% of Livermore citizens now need rental assistance, that women who are single parents have an especially hard time finding a place to live, and that a couple with two children making \$16,000 or less is a low income family.

Paul Smith, attorney for ECHO Housing assistance program, said that mechanics, clerks, junior accountants and others with steady jobs are low-income individuals in need of affordable housing. The city will lose the chance of new industry if it can't provide for the workers, he said.

"Are they busloads from East San (See HHS/INC, Page 2)





# Housing . . .

(continued from page one)

Jose or East Oakland?" asked Dan Lopez, housing program manager for the Association of Bay Area Governments. "No, they are right here," he answered himself.

Manuela Scott, managing attorney for the Legal Aid Society of Alameda County, took up that theme. "Most women are one man away from welfare," she contended.

Scott was easily the hearing's star proponent for stronger low cost housing policies. She presented a cogent position paper on behalf of her clients which argued that the city needs to be much more diligent in providing affordable housing than it has in the past. She urged the council at the least to retain its present "woefully inadequate" requirement for low cost housing in each tract.

She said she supports providing in-

centives to builders of low cost housing, but stressed that without a "coercive element" (the requirement that each new tract must provide low cost housing) there is little hope of achieving any significant amount of the needed housing, particularly in view of the city's growth rate limit of 2% per year.

In fact, said Scott, in order for the city to better provide its fair share of regional low cost housing, it should require 30% low cost housing in each tract.

Monday's hearing was to take testimony on whether the city should continue to require low cost housing in every new tract, and on a variety of related issues to insure that such housing will be built and will remain in the city's housing stock.

The hearing tangentially related to the specific Lexington Homes by calling for testimony on a proposed 35,000 gallons per day sewage capacity allocation for such low-cost projects, and on a priority processing plan which would make it easier to process them.

With so much to discuss, the hearing bogged down in council wrangles over what testimony to allow and in sometimes lengthy explanations to residents over zoning processes and other arcane matters.

As a result and after over three hours of testimony, the whole matter was continued until October 15, when votes are expected on both the Lexington project and also on the general low cost housing policies.

During the hearing councilor Marlin Ebert made it clear he would vote against the project. Other councilors haven't committed themselves publicly, but all have been under heavy pressure from area residents to do likewise.

# An encouraging look at subsidized housing

12/2/79

**LIVERMORE** — High numbers of subsidized, low-income housing units don't have to mean barracks-type facilities in a poorly-maintained "urban ghetto."

In fact, subsidized projects can be attractive, prize-winning developments, a group of community leaders and city staff members learned last week from a tour of several nearby cities.

"I knew some of these projects could be very nice, and the tour just reinforced my belief that they could be done very attractively to blend in with the surrounding community," said Michael Henn, Livermore's zoning administrator.

Henn, with nine other local leaders and staff people, traveled to the Josephine Lutz Lodge, a 150-unit senior citizen project in Hayward; Webster Wood, a 68-unit mixed income family project in Palo Alto, and scattered site duplexes for low-income families developed by the Alameda County Housing Authority in Union City.

Participants included members of the League of Women Voters, Association of City Area Governments — which sponsored the tour Eden Council of Hope and Opportunity, Interfaith and the Planning Commission.

They spent a day touring the sites, asking questions and studying the possibilities for adapting plans to Livermore's housing needs. A similar trip may be

made by a group of Pleasanton housing and city officials Dec. 13.

"I went because I've been personally interested in the housing issue and the League has taken a strong position encouraging the supplying of affordable housing," said Bonnie Howard, president of Livermore League of Women Voters.

Her group supported support of Lexington Homes, the proposed mixed housing project of low-moderate income subsidized units with other market-priced dwellings at Murrieta Boulevard and Olinda Avenue.

Howard said she was "very favorably impressed" by the three projects they toured, noting "I knew that some of the bad examples (of subsidized housing) are the exceptions and I wanted to see some of the projects that are much better."

She praised the award-winning Palo Alto project, which mixes age and income groups, including units for families, senior citizens and handicapped. "It blends in so beautifully with downtown Palo Alto there is just nothing to object to," she said of the project that won an American Institute of Architects' design awards.

Harold Hafke, who manages Hillcrest Apartments for seniors, found the tour "very constructive."

He compared the senior citizen project

in Hayward to Hillcrest, noting they were built about the same time within the last eight years but with a higher density in Hayward.

"I went along because we're definitely interested in expanding low-income and elderly facilities of Livermore," Hafke said, adding there's a waiting list of about 90 persons.

Henn also praised the Hayward project's "extremely well maintained appearance and great landscaping. It shows so much care, and with approximately 37 units per acre it doesn't appear that dense."

Several noted that the success of the senior project could include more use of the land for small studio and one-bedroom units and less parking. The Hayward project is next to a shopping center, a park and near a hospital, which benefits older residents who may not drive as much.

Henn said Livermore requires 1.75 parking spaces per unit, higher than the one space per four units at Josephine Lutz Lodge. "Livermore is just more auto-oriented, though," he added.

Planning Commission Chairwoman Candy Simonen found the trip "surprisingly informative. From the planning point of view, I liked seeing the details of higher density and how well it was handled."

"One thing that becomes clear is you don't need the same parking ratio for sen-

ior citizens as for other developments," she said.

"One very impressive thing was how attractive they were," she added. She said one woman who had worked in the Palo Alto project from the start told the group they had encountered strong neighborhood opposition at the beginning, a lot of input, and now they have good acceptance by the neighbors of the project," Simonen said.

Dan Lopez of ABAG, which sponsored the tour, said his agency is developing a slide show of the different types of subsidized housing available in the Bay area for showing to civic groups. The film focuses on houses for all segments, including cooperative housing.

ABAG also is putting together a Bay area directory of assisted housing for consumers, housing authorities and cities about what is available. "It's largely geared to the consumers," Lopez said. Anyone interested in more information on the slide show or directory should contact Lopez at 841-9730.

Lopez said the purpose of the tour was to give community leaders a "feel" of the projects, which were all non-profit ventures.

"You can get so much out of a verbal description and slide show, but to be there you actually get a feel for the project," he said. "You walk around and see how it fits into the community and it feels good."





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